

HAMILTON M. BLACK, et. al.

vs.

WILLIAM PHELPS, et. al.

TO ANNUL DECREE OF PARTITION OF DISTRICT
COURT OF
HALF-BREED SAC AND FOX RESERVATION,
OF
LEE COUNTY, IOWA.

To William Phelps, Rosella O'Gleim, Samuel Marsh, William E. Lee, Edward C. Delavan, Charles Thompson, Patrick Welsh, Etienne Proyst, George H. Crossman, Heirs of Otis Reynolds, deceased, William H. Smith, John B. Sarpy, Edmund H. McCloskey, Heirs of J. A. V. Palmer, deceased, Margaret Farrar, John Walsh, Edward Walsh, Uriel Wright, William M'Daniel, Henry B. Dartagh, Edward Manning, John Bertram, Thomas Connelly, William Gillis, Antoine Le Claire, Josiah Spalding, Archibald Gamble, James Smith, William Smith, Dalzell Smith, Greene Erskine, Abijah Fisher, David W. Kilbourne, Henry S. Austin, Mary L. Murdock, James R. M'Daniel, John H. Lines, Joseph W. Walsh, Angelique Mattabon, Patrick Walsh, John O'Reurke, Samuel Abbott, Abraham Wendell, James L. Schoolcraft, Wilson L. Overall, Henry McKee, Euphrosine Antaya, Samuel Hearn, Heirs of H. K. Ortley, Herman C. Cole, Joseph Ridgeway, trustee of George Patch, Antoine Garcia and wife, Hugh Tumulty, Henry C. Ward, Garret V. Denniston, James Manning, Sheldon Norton, Ebenezer D. Ayres, Heirs of Nathaniel Knapp, Edward Kilbourne, Elizabeth

Hunt, Eliza O. Perkins, Benjamin Franklin Messenger, James Muir, Augustus Gonville, William Price and wife, Henry Brown, John Wright, Stephen Gore, Michael Tesson, Archibald Gamble, James L. Burtis, William H. Smith and Cyrus Peck:

You are hereby notified that on or before the 28th day of March, A. D. 1856, there will be on file in the Office of the Clerk of the District Court in Lee County, Iowa, at Fort Madison, a petition of Hamilton M. Black, Andrew Keithler, James Crayton, Joseph Nicum, C. H. Wrig't and Garry Lewis, charging that the judgment or decree made by the District Court of Lee County, Iowa Territory, on the 8th day of May, A. D. 1841, partitioning the "Half Breed Lands," or reservation as defined by treaty and Act of Congress, and situate in said County, among you severally, is fraudulent, illegal and void, both at law and in equity. That they severally own good and genuine title to a part of said reservation of land, and have right to the same in common with the other owners thereof, and setting out at large the collusion, circumvention, confederation and fraud by which the said partition was effected, and petitioners and others in like condition heretofore and now deprived of any portion thereof, or right therein. Said petition prays that said decree may be vacated, set aside and held for naught. The said Half Breed reservation, known in common parlance as the "*Half Breed Tract*," which is fully described in said petition, shall be re-partitioned among the rightful owners thereof, after legal proof of title, in all cases where it may be asserted to said land, that all spurious claims heretofore allowed be excluded from such re-partition, and for all such further and greater relief, both general and special, as may be in the power and province of a court of equity to grant, and the peculiar circumstances of their case demands.

And that unless you appear and answer thereto on or before the second day of the next term of said Court, at Fort Madison aforesaid, to be begun and held on Tuesday, the 8th day of April, A. D. 1856, said petition will be taken as true, and decree in accordance with the prayer thereof, rendered against you thereon.

10TH MARCH, 1856. ARCHIBALD WILLIAMS,
FRANCIS SEMPLE,
At'tys for Plaintiffs.

This notice came into my hands March 14th, 1856; served the within notice on David W. Kilbourne, John Wright, Edward Kilbourne, Benjamin Franklin Messenger and Cyrus Peck, by reading the same to them; copy demanded by David W. Kilbourne, and delivered to him; no copy demanded by either of the others; served on David W. Kilbourne, March 15th, 1856, on Cyrus Peck, March 17th, and on Edward Kilbourne, Benjamin Franklin Messenger

and John Wright, March 18th, 1856. Neither of the other defendants named in the within notice to be found.

C. B. TURNER, Sheriff of Lee Co., Iowa,
By H. M. Griffith, Deputy.

*To the Honorable the District Court of Lee County, Iowa,
at Fort Madison,—In Chancery:*

Your petitioners, Hamilton M. Black, Andrew Keithler, James Crayton, Joseph Nicum, Garry Lewis, and Cyrus H. Wright, respectfully represent,

That by treaty between the United States of America, and the Sac and Fox Nations of Indians, bearing date the fourth day of August, A. D. 1824, a certain piece or tract of land, lying and being within the said county of Lee, and known in common parlance as the "*Half Breed Tract*," and lying and being between the rivers Des Moines and Mississippi, and bounded on the north by a line running due east from the north-west corner of the State of Missouri, to the said Mississippi river, as in said treaty is specified and set forth, (which treaty is hereby referred to, and made a part hereof,) for the use of the Half Breeds, in and belonging to the said Sac and Fox Nations of Indians, they holding it by the same title and in the same manner that other Indian lands or titles within the jurisdiction of the United States of America, were held by the various Indian tribes.

That afterwards, to wit: on the 30th day of June, A. D. 1834, the reversionary interest of the said United States of America, in said tract of land, was by an Act of Congress of that date, relinquished to and vested in such Half Breeds, as by the treaty reservation were entitled (to) the Indian title to the same, which said Act of Congress is hereby referred to and made a part hereof.

That the Half Breeds of the Sac and Fox nations of Indians, aforesaid, were named as follows: Elisabeth Antaya, Margaret Antaya, Maria Antaya, Theodetter Antaya, Euphrosine Antaya, Isaac Antaya, Isadore Antaya, Chroystome Antaya, Maria Louisa Hebert, Francis Hebert, Margaret Hebert, Pierre Jandron, Lisetta Giard, Mary Giard, Victor Blondeau, Maurice Blondeau, Angelique or Mary Louisa Blondeau, Francis Blondeau, Amelia Blondeau, Catharine Blondeau, Elisabeth Honerie, Elisabeth Hunt, Elisa Johnson, Mary Johnson, Rosselia Johnson, Louisa Muire, James Muire, Jane Muire, Thomas Connelly, a child of James Campbell, a child of Nadane, Amelia Gonville, Lauret Gonville, Jeaut or Agustus Gonville, Maurice Gonville, Betsy Farrar, Thomas Abbott, Joseph Gonville, and numbering in all thirty-eight persons, and named as near correctly as is within the power of petitioners so to do, who and who alone are the beneficiaries

* and Lobott-Keunks mother — they are

mentioned in the treaty, and Act of Congress, herein before referred to.

That on the 14th day of April, A. D. 1840, Josiah Spalding, Archibald Gamble, Patrick Walsh, Etienne Provost, John and Edward Walsh, H. K. Ortley, Greene Erskine, Joseph Ridgeway, assignee of George Patch, Herman C. Cole, Stephen Gore, John B. Sarpy, Edmund H. McCabe, Hugh Tumulty, James R. McDonald, Joseph W. Walsh, John O'Rourke, Antoine Garcia, and Margarett, his wife, Angelique Mattabon, formerly Laguthrie, Michael Tesson, of the city of Saint Louis, Missouri, heirs of Otis Reynolds deceased, of said city, heirs and legal representatives of J. A. H. Palmer, late of Saint Louis, deceased, George H. Crossman, of the United States Army, and Antoine Leclaire, of Davenport in the Territory of Iowa, filed in the office of the then Clerk of the District Court of said Lee county, Iowa, through Reid and Johnson, their attorneys, their petition for partition of the said Half Breed Tract among the owners thereof, under a law of the Territory entitled, "An act to provide for the partition of real property," approved 4th of January, A. D. 1839, pretending to represent by purchase and ownership, the shares and interests in said petition mentioned.

Said petition is in the words and figures following, to wit:

"APRIL TERM, 1840.

"*To the District Court of Lee County, in the Territory of Iowa :*

"Your petitioners, Josiah Spalding, Archibald Gamble, Patrick Walsh, Etienne Provost, John and Edward Walsh, H. K. Ortley, Greene Erskine, Joseph Ridgeway, assignee of George Patch, Herman C. Cole, Stephen Gore, John B. Sarpy, Edmund H. McCabe, Hugh Tumulty, James R. McDonald, Joseph W. Walsh, John O'Rourke, Antoine Garcia and Margarett his wife, Angelique Mattabon, formerly, Laguthrie, Michael Tesson, of the city of Saint Louis, and state of Missouri.

"Heirs and legal representatives, of Otis Reynolds, late of the city of Saint Louis, deceased. Heirs and legal representatives of J. A. H. Palmer, late of Saint Louis, deceased. George H. Crossman, of the United States Army, and Antoine Leclaire, of Davenport, in the Territory of Iowa, represent that they have a legal title to, and are seized in fee simple of twenty-three and one-third full shares, and five thousand one hundred and thirty-five acres of land in that tract of land commonly called the 'Half Breed Tract,' situate in Lee county aforesaid, lying between the Mississippi and Des Moines rivers. Bounded on the north by a line drawn from the north-west corner of the State of Missouri east to the Mississippi river, and containing one hundred

and nineteen thousand acres, more or less, together with one full share and the one-sixth of a full share in Keokuk, a village situated on said tract.

"The particular interests here claimed are as follows, to wit:

"Josiah Spalding claims one-half of a full share under Margaret Antaya, a Half Breed of the Sac and Fox nation of Indians.

"Also, the one-half of a full share under Theoliste Provost, a Half Breed of the same nation of Indians.

"Also, the one-eighth of a full share under Mary Giard, a Half Breed of the same nation.

"Also, the one-fourth of a full share under Frances Blondeau, a Half Breed as aforesaid.

"Archibald Gamble claims the one-half of a full share under Margaret Antaya, a Half Breed as aforesaid.

"Also, the one-half of a full share under Theoliste Provost, a Half Breed as aforesaid.

"Also, the one-eighth of a full share under Mary Giard, a Half Breed, as aforesaid.

"Patrick Walsh claims one-half of a full share under Isadore Antaya, a Half Breed as aforesaid.

"Also, the one-half of a full share under Benjamin Laguthrie, a Half Breed as aforesaid.

"Etienne Provost claims one-half of a full share under Isadore Antaya, a Half Breed, as aforesaid.

"John and Edward Walsh claim the two-thirds of a full share under Maria Hebert, a Half Breed, as aforesaid.

"Also, three-fifths of a full share under Pierre Jandron, a Half Breed, as aforesaid.

"Also, the one-eighth of a full share under Francis Blondeau, a Half Breed, as aforesaid.

"Also, three hundred and twenty acres under Isaac Antaya, a Half Breed, as aforesaid, being one quarter claim.

"Also, six hundred and forty acres of land, under Peter Courville, being one-half claim.

"H. K. Ortley claims the two-fifths of a full share under Pierre Jandron, a Half Breed, as aforesaid.

"Greene Erskine claims the two-thirds of a full share under Lisetta Giard, a Half Breed, as aforesaid.

"Also, the one-eighth of a full share under Francis Blondeau, a Half Breed, as aforesaid.

"Also, a full share under Francis Ontio, a Half Breed, as aforesaid.

"Joseph Bidgeway, trustee of George Patch, claims the one-third of a full share under Lisetta Giard.

"Herman C. Cole claims the one-fourth of a full share under Francis Blondeau, a Half Breed, as aforesaid.

"Stephen Gore claims the one-eighth of a full share under Francis Blondeau, a Half Breed, as aforesaid.

"John B. Sarpy claims the one-third of a full share under Catharine Blondeau, a Half Breed as aforesaid.

"Edmund H. McCabe claims the one-third of a full share under Catharine Blondeau, a Half Breed, as aforesaid.

"Hugh Tumulty claims one full share under Elisabeth Honerie, a Half Breed, as aforesaid.

"James R. McDonald claims one full share under Thuen Mailloth, a Half Breed, as aforesaid.

"Joseph W. Walsh claims the one-half of a full share under Margarett Charpentier, now Gaines, a Half Breed, as aforesaid.

"Also, the one-half of a full share under Angelique Laguthrie, now Mattabon, a Half Breed, as aforesaid.

"John O'Rourke claims the one-half of a full share under Benjaminine Laguthrie, a Half Breed, as aforesaid.

"Antoine Garcia and Margurite, his wife, claim the one-half of a full share in right of said wife, formerly Margurite Charpentier, a Half Breed, as aforesaid.

"Angelique Laguthrie, now Mattabon, claims the one-third of a full share in her own right.

"Michael Tesson claims four thousand acres more or less, and a full share to the town of Keokuk, under Lisette St. Jean, alias La Puche, a Half Breed, as aforesaid, being one full share.

"Heirs and legal representatives of Otis Reynolds, deceased, claim the one-third of a full share under Maria Hebert, a Half Breed, as aforesaid.

"Also, the one-eighth of a full share under Franees Blondeau, a Half Breed as aforesaid.

"Heirs and legal representatives of J. A. H. Palmer, deceased, claim the one-third of a full share under Catharine Blondeau, a Half Breed, as aforesaid.

"George H. Crossman claims the one-half of a full share under Christopher Antaya, a Half Breed, as aforesaid.

"Also, the one-third of a full share under Isaac Antaya, a Half Breed, as aforesaid.

"Also, one hundred and seventy-five acres of land, and the one-sixth of a full share in the town of Keokuk, under Maria Antaya, a Half Breed, as aforesaid. *

"Antoine Leclaire claims one full share under Emily Lucie, a Half Breed, as aforesaid.

"Also, one full share under Babtist Join, a Half Breed, as aforesaid.

"Also, a full share under Thomas Abbott, a Half Breed, as aforesaid.

"Also, one full share under Catharine Morgan, a Half Breed, as aforesaid.

* also 173 $\frac{1}{3}$ acres & $\frac{1}{8}$ share in Keokuk under
Mari Louise Hebert, a $\frac{1}{2}$ Breed.

"Also, one full share under Charlotte Janish, a Half Breed, as aforesaid.

"Also, one full share under John Morgan, a Half Breed. +

"Also, a full share under Catharine Watts, a Half Breed. 2d +

"Also, one full share under Margarett Leclaire, his wife, a Half Breed of the Sac and Fox nations of Indians. +

"And your petitioners further represent, that Euphrosine Antaya, Elisabeth Hunt, Elisa O. Perkins, (late Gildersleeve, formerly Johnson,) Mary L. Murdock, formerly Johnson, Rosella O. Gliem, formerly Johnson, James Muir, Thomas Connelly, and Betsy Farrar, their heirs or assigns, and other persons whose names and places of residence are unknown to your petitioners, are tenants in common with your petitioners in said premises.

"Your petitioners, therefore, pray that partition of said lands may be made, or if the same cannot be partitioned without manifest injury to the lands described, then that such proceedings may be had, that the whole or any part thereof which cannot be divided as aforesaid, may be sold according to law, and proceeds be disposed of as directed by law.

"REID & JOHNSON,
"Attorneys for Petitioners.

"TERRITORY OF IOWA, }
"LEE COUNTY, }
 S.C.T.

"Edward Johnson on his oath, says, that the facts set forth in the foregoing petition are true to the best of his knowledge and belief.

"Sworn and subscribed the 14th of April, A. D. 1840,
"EDWARD JOHNSON.

"JOHN H. LINES, Clerk District Court."

On the back of said petition is the following: "Filed 14th of April, A. D., 1840.

"REID & JOHNSON,
"Attorneys for Petitioners.

Petitioners farther state that on said 14th day of April, A. D., 1840, Reid & Johnson, Attorneys, as aforesaid, filed in the office aforesaid, their preceipe in the following words and figures to wit:

"TERRITORY OF IOWA, }
 "**LEE COUNTY,** } **SCT.**

"Josiah Spalding, Archibald Gamble, Patrick Walsh, Etienne Provost, John & Edward Walsh, H. K. Ortley, Green Erskine, Joseph Bidgeway, assignee of George Patch, Herman C. Cole, Stephen Gore, John B. Sarpy, Edmund H McCabe, Hugh Tumulty, James R. McDonald, Joseph W. Walsh, John O'Rourke, Antoine Garcia and Margurite his wife, Angelique Mattabon, formerly Laguthrie, Michael Tesson, heirs and legal representatives of Otis Reynolds, deceased, heirs and legal representatives of J. A. H. Palmer, deceased, George H. Crossman and Antoine Leclaire.

*Petition
for
Partition.*

v.s.

"Euphrosine Antaya, Elisabeth Hunt, Elisa O. Perkins, late Gildersleeve, formerly Johnson, Mary L. Murdock, formerly Johnson, James Muir, Thomas Connelly, Tosella O'Gleim, formerly Johnson, Betsy Farrar. *

"The clerk of the court will issue a summons in the above cause returnable according to law.

REID & JOHNSON,
Attorneys for Petitioners.

April 14th, 1840.

That on same day, to wit, 14th April, A. D. 1840, the Clerk of said Court, in obedience to the preceipe aforesaid, issued a summons in the following words and figures, to wit:

"TERRITORY OF IOWA, }
 "**LEE COUNTY,** } **SCT.**

*"The United States of America, to the Sheriff of said County,
Greeting:*

"You are hereby commanded to summon Euphrosine Antayer, Elisabeth Hunt, Eliza O. Perkins, late Gildersleeve, formerly Johnson, Mary L. Murdock, formerly Johnson, Rosette O'Gleim, formerly Johnson, James Muir, Thomas Connelly and Betsy Farrar, if to be found in your county, to be and appear before the District Court for the said County, on the first day of the next term thereof, to be begun and holden within and for said County, at the Court House in Fort Madison, on the fourth Monday of

Note. That although there were many persons known to ~~be~~ be interested in the premises, who resided on the land, not one of these were made Defendants!?

April inst., to answer unto Josiah Spalding, Archibald Gamble, Patrick Walsh, Etienne Provost, John and Edward Walsh, H. K. Ortley, Greene Erskine, Joseph Ridgeway, assignee of George Patch, Herman C. Cole, Stephen Gore, John B. Sarpy, Edmund H. McCabe, Hugh Tumulty, James R. McDonald, Joseph W. Walsh, John O'Rourke, Antoine Garcia and Margaret his wife, Angelique Mattabon, formerly Laguthrie, Michael Tesson, Heirs and legal representatives of Otis Reynolds, deceased, Heirs and legal representatives of J. A. H. Palmer, deceased, George H. Crossman and Antoine LeClaire, in a petition in partition exhibited against them by the persons last aforesaid. Hereof fail not, and have you then and there this writ. Witness the Hon. Charles Mason, Judge of our said Court, and sealed with the temporary seal of said Comt, this fourteenth day of April, 1840.

JOHN H. LINES, Clerk District Court.

That on the back of said summons thus issued as aforesaid, are endorsements in the following words and figures, to-wit:

"APRIL TERM, 1840.

SPALDING AND OTHERS,

vs

ANTAYA AND OTHERS.

{ Petition for Partition.

"Petition filed before this writ issued April 14th, 1840.

JOHN H. LINES, Clerk District Court.

REID & JOHNSON,

Att'ys for Petitioners.

"The within named defendants not found April 16th, 1840.

B. W. GILLOCK, Sheriff.

Petitioners further state that on 27th April, 1840, the following proceedings were had, as appears from the records of the Court made at that time, and of that date, to wit:

"JOSIAH SPALDING et. al.

vs

EUPHROSINE ANTAYA, et. al.

{ Petition for Partition.

"And now come the plaintiffs by Reid and Johnson their attorneys, and move the court for a continuance, and order of publication as the law directs. Whereupon the same is ordered by the Court.

Petitioners further state that the following notice and affidavit, appears to have been filed on the 9th of October, 1840.

* Was there any search made? or was the Plaintiff advised by the confederates that the debts named in the will, were selected because they were non residents, to make his return without going out of the court House? which he did do accordingly.

"TERRITORY OF IOWA, }
 "LEE COUNTY, } SCT.
 "JOSIAH SPALDING, et. al. } Petition for partition.
 vs
 EUPHROSINE ANTAYA, et. al.

DISTRICT COURT FOR SAID COUNTY, APRIL TERM,
 1840.

"Notice is hereby given, that a petition was filed on the 14th day of April, A. D. 1840, in the District Court of Lee County aforesaid, by Josiah Spalding, Archibald Gamble, Patrick Walsh, Etienne Provost, John and Edward Walsh, H. K. Ortley, Greene Erskine, Joseph Ridgeway, assignee of George Patch; Herman C. Cole, Stephen Gore, John B. Sarpy, Edward H. M'Cabe, Hugh Tumulty, James R. M'Donald, Joseph W. Walsh, John O'Rourke, Antoine Garcia and Margaret his wife, Angelique Mattabon, formerly Laguthrie, Michael Tesson, Heirs and legal representatives of Otis Reynolds, deceased; Heirs and legal representatives of J. A. H. Palmer, deceased; George H. Crossman and Antoine Le Claire as petitioners, and against Euphrosine Antaya, Elisabeth Hunt, Eliza O. Perkins, (late Gildersleeve,) formerly Johnson, Mary Murdock, formerly Johnson, Rosella O'Gleim, formerly Johnson, James Muir, Thomas Connelly and Betsy Farrar as defendants, and is now pending, wherein the said petitioners pray that a partition be made of the following real estate, to wit: All that tract of land commonly called the "*Half Breed Tract*," situate in Lee County aforesaid, lying between the Mississippi and Desmoine rivers, bounded on the north by a line drawn from the north-west corner of Missouri, east to the Mississippi river, and containing one hundred and nineteen thousand acres, more or less, and they the said defendants, AND ALL OTHER PERSONS INTERESTED in the property herein described, are hereby required to appear and answer to the said petition on or before the next term of the District Court of Lee county aforesaid, to be begun and holden on the first Monday of October next, or the proceedings had in the cause thereafter, will be binding and conclusive on them forever.

JOHN H. LINES, Clerk District Court.

REID & JOHNSON,

Attorneys for Plffs,

P. S. All persons interested in the Half Breed Tract as claimants or otherwise, and desirous to obtain information in relation to said tract, will have their requests attended to, by addressing them post-paid to

REID & JOHNSON,

Fort Madison, Lee Co., Iowa.

"TERRITORY OF IOWA, }
"LEE COUNTY, } SCT.

"Personally appeared before me John H. M'Kinney, who being duly sworn, upon his oath deposes and says he is the publisher of the "Iowa Territorial Gazette and Advertiser," published at the City of Burlington, the seat of Government of said Territory, and that the above notice hereto attached, has been published in said paper for twelve successive weeks immediately preceding this date.

JOHN H. M'KINNEY.

"Subscribed and sworn to before me, this 3rd day of October, 1840.

JOHN H. LINES, Clerk.

Endorsements upon back of the same:

"District Court, Lee County,

"SPALDING AND OTHERS,

vs } Partition.

ANTAYA AND OTHERS.

Certificate of publication of notice filed October 9th, 1840.

JOHN H. LINES, Clerk,

By EDWIN GUTHRIE, Deputy.

"REID & JOHNSON, Attorneys for Spalding and others.

"Petitioners farther state that during the October term of the Court for 1840, and the April term, 1841, sundry persons at sundry dates on leave of court for that purpose given, entered their appearance, and asked and obtained time to answer, the several records of which are hereby referred to and made a part of this petition.

"They further state that on October 13th, 1840, the following answer was filed:

"JOSIAH SPALDING et. al.

vs } Partition.

EUPHROSINE ANTAYA & OTHERS.

"Eliza Hunt, Rosella O'Gleim, formerly Johnson, and Edgar H. O'Gleim her husband, Mary L. Murdock, formerly Johnson, and Francis B. Murdock, her husband, and Eliza Perkins, late Gildersleeve, formerly Johnson, and David Perkins, her husband, some of whom are named as defendants in the above entitled cause, came into court by Reid and Johnson, their attorneys, and state the amount of interest which they hold in Half Breed lands to be as follows, to wit:

"Eliza Hunt is entitled to one full share or portion in these lands in her own right, she being a half-breed of the Sac and Fox nations of Indians.

"Rosella O. Gleim and Edgar H. Gleim are entitled to one full share or portion in the said lands, in right of the said Rosella, she being a half-breed of the said tribes of Indians.

"Mary L. Murdock and Francis B. Murdock are entitled to a full share or portion of the said lands, in right of said Mary, she being a half-breed of the said tribes of Indians.

"Eliza Perkins and David Perkins are entitled to one full share in these lands, in right of said Eliza, she being a half-breed of said tribes of Indians.

REID & JOHNSON,

"Attorneys for Eliza Hunt, &c.

Endorsements on its back:

DISTRICT COURT, OCTOBER TERM, 1840.

SPALDING AND OTHERS,

vs

ANTAYA AND OTHERS,

Partition.

"Answer of Eliza Hunt, Rosella O'Gleim, Mary L. Murdock and Eliza Perkins. Filed October 10th, 1840; also, filed October 13th, 1840.

JOHN H. LINES, Clerk.

REID & JOHNSON,

"Attorneys for E. Hunt & others.

They further state that on 12th of March, 1841, the following answer was filed:

DISTRICT COURT, LEE COUNTY, APRIL TERM, 1841.

"JOSIAH SPALDING, et. al.

vs.

EUPHROSINE ANTAYA, et. al.

Partition.

"William Phelps, Ebenezer D. Ayers, William Gillis, Henry M'Kee, James L. Schoolcraft, Samuel Abbott and Abraham Wendall, Wilson L. Overall, John Wright, Garret V. Denniston and John Ward come into court by Reid and Johnson, their Attorneys, and state the amount of interest which they hold in the Half Breed lands in Lee county, to be as follows, to wit:

found
William Phelps claims to be entitled to one full share or portion, or share in these lands, in right of R-she-a-wa, a Half Breed of the Sac or Fox nation of Indians, as will appear by his conveyance on file.

found
William Phelps claims to be entitled to one full share or portion of or in these lands, in right of Wa-ba-wa-ma, a Half Breed of the Sac and Fox nations of Indians, as will appear by his conveyance on file.

found
Ebenezer D. Ayres claims to be entitled to all the right title and interest of Eustice Cardinal, being one-half share the son of Elisabeth Cardinal, formerly Elisabeth Antaya, a Half Breed of the Sac and Fox nations of Indians, as will appear by an instrument of writing on file.

done at f.
William Gillis claim to be entitled to a full share or portion in these lands, in right of Louis Bulatette, a Half Breed of the

Sac and Fox tribes of Indians, as will appear by his conveyance filed.

"Henry McKee claims to be entitled to a full share or portion in these lands, in right of Louis Granville, a Half Breed of the Sac and Fox tribes of Indians, as will appear by his conveyance filed.

"Wilson L. Overall claims to be entitled to one half of a full portion or share in these lands, in right of Charles Munar, and Francois, his wife, formerly, Francois Hebert, the said Francois being a Half Breed of the Sac and Fox nations of Indians, as will appear by conveyance on file.

"Wilson L. Overall claims to be entitled to one-fourth of a full share or portion in these lands, in right of Mary St. Amont, formerly Blondeau, a Half Breed of the Sac and Fox tribes of Indians, as will appear by a copy of conveyance filed.

"Wilson L. Overall claims to be entitled to one-third of a full share or portion, in the Half Breed lands, in the right of Isaac Antaya, a Half Breed of the Sac and Fox tribes of Indians, as will appear by conveyance filed.

"Wilson L. Overall claims to be entitled to one hundred and seventy-one acres in the Half Breed Tract, and one-sixth of an interest, or share, or portion in the town of Keokuk, under Peter Cainille, and Maria his wife, formerly Maria Antaya, she being a Half Breed of the Sac and Fox tribes of Indians, as will appear by her conveyance filed.

"John Wright claims to be entitled to one-fourth of a full share, or portion in the Half Breed lands, in right of Charles Munar, and Francois, his wife, formerly Francois Hebert, through Isaac R. Campbell; the said Francois being a Half Breed of the Sac and Fox nations of Indians, as will appear by conveyances filed.

"Garret V. Denniston claims to be entitled to one-half of a full share, or portion in the Half Breed land, in right of Henry Diacon, and Sophia, his wife, otherwise, Sophia Dumont, through Legraves; she, the said Sophia, being a Half Breed of the Sac and Fox nations of Indians, as will appear by the conveyance filed.

"John C. Ward claims to be entitled to the one-half of a full share or portion, in the Half Breed lands, in right of Henry Diacon and Sophia, his wife, otherwise, Sophia Dumont, through Legraves. She, the said Sophia, being a Half Breed of the Sac and Fox nations of Indians, as will appear by the conveyances filed.

"James L. Schoolcraft claims to be entitled to the one-half of a full share, or portion in the Half Breed land, in right of Louis Desoynis, through George Johnson, the said Desoynis being a Half Breed of the Sac and Fox tribes of Indians, as will appear by conveyance filed.

"Samuel Abbott and Abraham Wendall claims to be entitled

Doubtful.
to the one-half of a full share, or portion in the Half Breed lands, in right of Louis Desoynis, through George Johnson, the said Desoynis being a Half Breed of the Sac and Fox nations of Indians, as will appear by the conveyances filed.

"REID & JOHNSON,

"Attorneys for Petitioners.

Endorsed as follows, to wit:

**"DISTRICT COURT OF LEE COUNTY, APRIL TERM,
1841.**

"SPALDING, et. al. { Petition.
vs.

"ANTAYA, et. al. {

"Answers of William Phelps, E. D. Ayres, William Gillis, Henry McKee, James L. Schoolcraft, Samuel Abbott, Abraham Wendall, G. V. Denniston, John C. Ward, Wilson L. Overall, and John Wright.

"Filed 12th March, 1841.

O. S. X. PECK, Clerk.

"REID & JOHNSON,

"Attorneys for Phelps &c."

Petitioners farther state, that on 26th April, 1841, the following answer was filed:

"TERRITORY OF IOWA, {
"COUNTY OF LEE, { SCT.

DISTRICT COURT, APRIL TERM, 1840.

"JOSIAH SPALDING, et. al. { Partition.
vs.
"EUPHROSINE ANTAYA, et. al. {

"And now comes Silas Andrews and Christopher R. Comstock, two of the unknown defendants against whom the said plaintiffs have filed their bills in the District Court, aforesaid, praying for a partition of certain lands commonly called Half Breed lands. And the said Silas Andrews and Christopher R. Comstock claims one entire interest in said lands, by purchase from William McBride, the said McBride claiming by purchase from James O'Quoi, heir and legal representative of Elisabeth Hunt, deceased, which said Elisabeth Hunt, the said Andrews and Comstock claim to have been a Half Breed, and entitled to claim under the reservation made by treaty for the benefit of the Sac and Fox Indians. And the said Silas Andrews and Christopher R. Comstock, by William H. Starr their attorney, filed herewith authenticated copies of the con-

+ Pops-e-quar, was mother to Elizabeth Hunt!

veyances under which they claim said interest and pray to be made parties to said petition.

"WILLIAM H. STARR,

"Attorney for Andrews & Comstock."

Endorsed upon the same is following :

"JOSIAH SPALDING, et. al. }
vs. {

"EUPHROSINE ANTAYA, et. al. }

"Answer of Silas Andrews and Christopher R. Comstock.

"Filed April 26th 1841, O. S. X. PECK, Clerk, entered.

"Petitioners farther state that on 8th of May, 1841, the following answer was filed.

"SPALDING AND OTHERS, }
vs. { *For Partition,*

"ANTAYA AND OTHERS.

"The answer of Augustus Gonville, and Benjamin Franklin Messenger, to the petition of Spalding and others against Antaya and others.

"In this case, for partition under the law of this Territory, of the land mentioned in said petition, by their attorney, Philip Viele, respectfully sheweth that they claim to be entitled to the shares and proportions of said Half Breed Tract, the land mentioned in the said petition set forth in the annexed list or schedule of Half Breed claims, the proofs of their title to which, and authentic copies of conveyances, by which the same are held, are herewith filed and produced to the court. And these defendants are willing that the said claims and the claims of the said petitioners, and of the other parties in this case should be decided and adjudged by the court, and partition decreed accordingly.

PHILIP VIELE,

Attorney.

Endorsed upon the same, is the following :

"SPALDING, et. al. }
vs. {

"ANTAYA, et. al. }

"Answer of Gonville and Messenger, entered.

PHILIP VIELE, Atty.

"Filed 8th May, 1841. O. S. X. PECK, Clerk.

"To this answer is annexed the following schedule of Half Breed claims, of Augustus Gonville, and B. F. Messenger.

"Augustus Gonville, in his own right as a Half Breed, one share.

"Benjaimin Franklin Messenger, under Maurice Gonville,
one share,—2 shares.

PHILIP VIELE,

Attorney.

"Petitioners farther state, that on the 8th May, 1841, the following answer was filed:

"District Court, Lee county, Iowa Territory, April Term, 1841.

"SPALDING, et. al. {
vs.
"ANTAYA, et. al. } *For Partition.*

"The answer of Abijah Fisher, D. W. Kilbourne and Henry S. Austin, and Edward Kilbourne, and John Bertram, to the petition of Spalding and others, against Antaya and others.

"In this court for partition under the laws of this Territory, of the land mentioned in said petition, by their attorney, Hugh T. Reid.

"Respectfully showeth, that they claim to be entitled to the shares and proportions of said Half Breed Tract, (the land mentioned in said petition,) set forth in the annexed list or schedule of Half Breed claims, the proofs of their title to which, and authentic copies of the conveyances by which the same are held, are herewith filed and produced to the court. And these defendants are willing that their said claims, and the claims of the said petitioners, and of the other parties in the case should be decided and adjudged by the court, and partition decreed according to law.

"HUGH T. REID,

"Attorney for Kilbourne &c."

Annexed to this answer is the following:

"Schedule of Half Breed claims, of Austin, Kilbourne, Kilbourne & Bertram, and Abijah Fisher.

"Abijah Fisher, under Baptiste Bissonette, $\frac{1}{4}$ share.

"D. W. Kilbourne and Henry S. Austin,
under Maw-qua-Kat-cha-wee Bissonette, $\frac{1}{4}$ share.

"D. W. Kilbourne and Henry S. Austin,
under Victory Petheal, 1 share.

"Edward Kilbourne under Puch-ah-ne, $\frac{1}{4}$ share.

"John Betram, under Les-ete La-sisse, $\frac{1}{4}$ share.

3 shares.

Endorsed thereon, is the following:

"SPALDING, et. al.
vs.
"ANTAYA, et. al.

"Answer of Fisher, Bertram, Kilbourne, Austin, &c., &c.
"Filed 8th May, A. D. 1841. O. S. X. PECK, Clerk, entered.
Petitioners further state, that on 8th of May, 1841, the following answer was filed, to wit:

DISTRICT COURT OF LEE COUNTY.

"SPALDING, et. al.
vs.
"ANTAYA, et. al.

"The answer of John Smith, William Smith, and Dalzell Smith, Charles Thompson, William Price, John H. Lines, William H. Smith, Henry Brown, and the heirs of Nathaniel Knapp, to the petition of Spalding, et. al., vs. Antaya, et. al., in this court for partition, under the law of this Territory, of the land mentioned in said petition, by their attorney, Rich, respectfully represent, that they claim to be owners, and entitled to the shares and portions of said Half Breed Tract, (the land mentioned in said petition,) set forth in the annexed list or schedule, of Half Breed claims, the proofs of the title to which claims are herewith filed and produced to the court, and these respondents are willing that their said claims, and the claims of the other parties, herein may be adjudged by the court and partition, decreed according to law.

"RICH, Attorney for Respondents."

Annexed thereto is the following:

"John H. Lines claims one full share, under We-Lath-e-quon. And, also, one full share under Susan Lapoint.

"William Smith, Dalzell Smith, and John Smith, claim three full shares, to wit: One full share under Maswaquois; one full share under Ha-la-waquoi, and one full share under Wa-pa-Richech.

"Charles Thompson claims one full share, under Pierre Antaya.

"William Price and his wife, claims one full share, in right of his wife.

"William H. Smith claims one and one-half full share, under Na-sa-wissett, and Wasse-ke. Also, one share under Wo-work.

"Henry Brown claims one-eighth of one full share.

"The heirs of Nathaniel Knapp claim two full shares, and seven-eighths of one full share, to wit: One-half of one full share under Wa-pa-shuk-a-mak; one full share under Ne-a-na-warque, one full share under Pun Boyir, seven-eights of one share under Melo-quait."

Endorsed thereon, is the following :

SPALDING, et. al. }
vs.
ANTAYA, et. al. }

Answer of William Smith, Dalzell Smith, and John Smith, Charles Thompson, William Price, Henry Brown, John H. Lines, and the heirs of Nathaniel Knapp, deceased. Entered.

Filed 8th May, A. D. 1841. O. S. X. PECK, Clerk.

Petitioners farther state, that on the 8th May, 1841, the following answer was filed :

DISTRICT COURT OF LEE COUNTY, APRIL TERM, 1841.

JOSIAH SPALDING, et. al. }
vs.
EUPHROSINE ANTAYA, et. al. } Partition.

Doubtful
James L. Burtis, Margaret Farrar, under the age of twenty-one years, by Sophia Farrar, her gaurdian, and Cyrus Peck, come into court, by Reid & Johnson their attorneys, and state the amount of interest which they hold in the Half Breed lands, in Lee county, to be as follows, to wit :

James L. Burtis, who claims through Stephen H. Burtis, claims to be entitled to one full share or portion in these lands, in right of Therese St. Andrew, formerly Therese Belle Furman, a Half Breed of the Sac and Fox nations of Indians, as will appear by his conveyance filed.

Doubtful
Margaret Farrar, by her gaurdian, Sophia Farrar, claims to be entitled to two full shares or portions in these lands, in right of Betsy Farrar and Mary Farrar, deceased, both Half Breeds of the Sac and Fox nations of Indians, the said Margaret, who thus claims through Betsy and Mary Farrar, her deceased sisters, having been born since the treaty of 1824, by which said lands were reserved to the said Half Breeds.

Family
Cyrus Peek claims to be entitled to one-eighth part or portion of a full share, in these lands, in right of Charlotte Carron, a Half Breed of the Sac and Fox nations of Indians, through David W. Kilbourne, and Harriet, his wife, as will appear by his conveyance filed.

REID & JOHNSON,
Attorneys for Burtis, et. al.

Endorsed thereon is the following :

DISTRICT COURT FOR LEE COUNTY, APRIL TERM, 1841.

SPALDING, et. al. }
vs.
ANTAYA, et. al. } Partition.

Answer of Samuel L. Burris, Margaret Farrar, and Cyrus Peck.
“Filed 8th May, 1841. O. S. X. Peck, Clerk.

Petitioners further state that on 8th May, 1841, the following answer was filed :

SPALDING, et. al. { Partition in District Court, April term.
vs.
ANTAYA, et. al.

The answer of James Manning, Sheldon Norton, Edward Manning, Uriel Wright, Henry T. Darrah, and William McDaniel, as trustee for Samuel Hearn, to the petition filed by Spalding and others, against Antaya, et. al., in this court for partition, under the law of this Territory, of the land mentioned in said petition, by their attorney, Henry W. Starr, respectfully showeth, that they claim to be entitled to the shares and proportions of said Half Breed Tract, (the land mentioned in the said petition,) set forth in the annexed list or schedule of Half Breed claims, the proof of their title, to which, and authenticated copies of the conveyance, by which the same are held, are herewith submitted and produced to the court, and these defendants are willing said claims, and the claims of the said petitioners, and the other parties in this case, should be decided, and adjudged by the court and partition decreed according to law.

WILLIAM H. STARR,
Defendant's Attorney.

Annexed to this answer is the following schedule:

James Manning and Sheldon Norton, claims one-half of one full share in the Half Breed, Sac and Fox reservation in right of the late Mary Courville, late Mary Lapointe, formerly, Mary Antaya, or Antoya, daughter of Pierre or Peter Antaya, a white man, and Sac and Fox woman.

Edwin Manning claims one-eighth part of two whole shares, in said reservation, in right of Percuma, or Pocuma, wife of Pourssou-i-te-quesa, the said Percuma, or Pocuma, being a Half Breed, of the Sac and Fox tribes of Indians, and, also, sole heir of her deceased brother, who was, also, a Half Breed, Sac and Fox.

Samuel Hearn and James Manning, claim as jointly and equally interested, one-half of the whole interest of Percuma or Pocuma, the wife of Pompte-te-quesa, which she owned in her own

right, and one-half of her interest in right of, and as sole heir to her deceased brother.

Urial Wright, Henry T. Darrah, and William McDaniel claim, as follows :

fraud
Concert

One share in said Half Breed reservation, in right of Felisite Lunsce, or Jusome, before marriage, as Felisite Dupiew, afterwards married to Pearl G. Leume, or Jusome.

Three-fourths of one entire share, in right of Mary Bell, wife of Tumis Bell.

The interest of Henry T. Darrah, is five-ninths of the above interest.

The interest of Urial Wright, is of one-ninth of the foregoing interest.

The interest of said Wright and McDaniel, are three-ninths as trusteeest.

HENRY W. STARR,
Attorney for Defendants.

On this answer is the following endorsements :

SPALDING AND OTHERS, }
vs. {

ANTAYA AND OTHERS. }

Answer of Edwin Manning, Henry T. Darrar, Urial Wright, Wm. McDaniel, Samuel Hearn, Sheldon Norton, and James Manning. Entered.

Filed May 8th 1841.

O. S. X. PECK, Clerk.

"Petitioners farther state that on May 8th, 1841, the following answer was filed :

DISTRICT COURT, APRIL TERM, 1841.

JOSIAH SPALDING, et. al.

vs

EUPHROSINE ANTAYA, et. al. }

Partition.

Thomas Connelly and James Muir, by Hugh T. Reid, his gaurdian, *ad litem*, he being a minor, under the age of twenty-one years, by Reid & Johnson, their attorneys, and state the amount of interest which they hold in the Half Breed lands, in Lee county, to be as follows, to wit :

Thomas Connelly claims to be entitled to one full share or portion, in the said lands, in his own right, he being a Half Breed of the Sac and Fox nations of Indians.

James Muir, by Hugh T. Reid his gaurdian, *ad litem*, claims to be entitled to one full share, in said lands, in his own right, he being a Half Breed of the Sac and Fox tribes of Indians.

REID & JOHNSON,
Attorneys for Connelly and Muir.

Endorsed upon this answer is the following :

DISTRICT COURT, APRIL TERM, 1841.

"SPALDING AND OTHERS,
vs
ANTAYA AND OTHERS."

Answer of Thomas Connelly and James Muir.

Filed May 8th, A. D. 1841. O. S. X. PECK, Clerk. Entered.

Petitioners farther state that on 8th of May, 1841, the following answer was filed, to wit :

SPALDING AND OTHERS,
vs
ANTAYA AND OTHERS.

{ For Partition.

The answer of Samuel Marsh, William Lee and Edward C. Delevan, Trustees under articles of association, bearing date 22nd of October, 1836, (herewith filed marked A) for the persons interested in said association, agreeably to the stipulations and provisions therein set forth, according to their respective interests, to the petition filed by Spalding and others against Antaya and otherse in this court for partition, under the law of this Territory, of the land mentioned in the said petition, by their attorney H. Key, respectfully sheweth, that they and the persons interested in said association whom they represent, claim to be entitled to the shares and proportions of said Half Breed Tract, the land mentioned in the said petition, set forth in the annexed list or schedule of half-breed claims, the proofs of their title to which, and authentic copies of the conveyances, by which the same are held and herewith filed and produced to the court. And these defendants are willing that their said claims, and the claims of the said petitioners, and of the other parties in this case should be decided and adjudged by the court, and partition decreed according to law.

H. KEY, for Defendants.

Annexed to this answer is the following list or schedule.

List or schedule of Half Breed Titles claimed by Samuel Marsh, William E. Lee and Edward C. Delavan, trustees for the New York claimants, to wit : under

An-ah-pe-ah	one portion.
or Louisa Gates,	
Pack-e-ta-chenier,	one "
Wash-e-o-qua,	one "
A-ke-ka-ne-nine,	one "
Kem-e-qua,	one " { by Paw-ne-nine & Wa-pe-sha-qua-ma, heirs.
Ma-e-quah,	one "
Ah-keh tay,	one " { by Wah-pe-sha-qua-mah, heir of Mah-wos-day

Maw-ka-heeh,	+	one	"	
Margaret Schoonberger,		one	"	(by Jean B. Schoonberger, heir and legal representative.
formerly				
Margaret Kratier,		one	"	
Kelwas-sah,		one	"	
Os-koo-thoke-wah-co,	+	one	"	
Wah-puk-way,	+	one	"	
Ma-she-pa-ke,		one	"	
Pa-me-poe-ko-Barlelot,		one	"	
Lizeh mar-ain,		one	"	
Pac-quol-a-kosh-kuk,		one	"	
Nawan-pe Louis Gravel,		one	"	
Ma-she-ke-ne-Raisin,		one	"	
Wah-wa-co De Maray,		one	"	
Elizabeth Antaya,		3	"	{ by Eli Cardinal & Eustace Cardinal, heirs.
Thomas Abbott,		one	"	
Antoine Carion,		4	"	{ by She-ko-na-shal-o-ma-tay & Angelica Carion, heirs.
Nah-mah-che-sah,	x	one	"	{ by Wash-ke-sha, son & heir.
Maw-ne,	+	one	"	
Nah-se-wis-seh,		one	"	{ by Ocqua soke, sole heir.
Wa-wa-ke,		one	"	
Amelia Delorm, formerly		one	"	
Amelia Gonville,		one	"	
Mac-i-nah,		one	"	
Tac-a-co,		one	"	
Co-sho-he-ah,		one	"	
Pa-pe-no-ah Galette,		one	"	
Muk-e-ho,		one	"	
Se-pe-nali,		one	"	
Mary Tollman, formerly		one	"	
Mary Duryee,		one	"	
Archange Smith, formerly		one	"	
Archange La Pearce,		one	"	
Mary La Pearce,		one	"	{ by Archange Smith & Birdsall & wife as heirs
Agatha La Pearce,		one	"	{ by Archange Smith & Birdsall & wife as heirs
Jane Muir,		½	"	{ by A. Hood and wife as heirs.
Ma-che-ne,	+	2/3	"	{ by Keshus and Kepas-qua as heirs.
An-o-we,		one	"	
Che-pa-tol-e-qua,		one	"	
+	Mas-se-pauh,	one	"	
Sac-i-na-qua-pa,		one	"	

Louisa Hood, formerly	640 acres land, and all their inter-
Louisa Muir,	est in Keokuk.
- Waw-sai-to-queis and	
- Pe-ah-twi-te-nobe,	
- Kish-ke-tum,	two portions.
- Ke-wah-chee,	one " by Nia-che-na, sole
- Mak-a-sese,	one " heir.
- Ka-no-sa,	one " (by Ut-tah-was as heir.)
- Nap-we,	one " by Nah-mah-quoh-taw-
- She-puck,	way, sole heir.
O-co-sa,	one "
Louisa Birdsall, formerly	one " by Nap-we & She-puck.
Louisa St. Jn. LaPerche.	+ Interest in Keokuk, and all remaining interest, (4320 acres, sold.)
Christopher Antaya,	$\frac{1}{2}$ portion.
Isaac Antaya,	$\frac{1}{2}$ acre in Keokuk.
Ke-shus,	one portion.
Ka-pas-qua,	one "
Ma-che-na,	one "
No-shaw-cum,	one "
Mas-se-se-poh,	one "
Pesh ke-sah-chieniere,	$\frac{1}{2}$ "
Uh-tah-was,	one "
Ash-e-cum-e-verbois,	one "
Eustace Cardinal,	one "
(Unknown) <i>do.</i>	$\frac{1}{2}$ " by A. Smith.
(do) <i>do.</i>	$\frac{1}{2}$ " by F. Wilcox.

H. KEY, for Defendants.

Endorsed upon this answer, is the following, to wit:

Marsh, Lee and Delevan, trustees answer, entered.

Filed 8th May, A. D. 1841. O. S. X. PECK, Clerk.

Petitioners farther state, that the articles of association, filed as part of the last answer, and marked A, are in the following words and figures, to wit:

This indenture, made this 22d day of October, one thousand eight hundred and thirty-six, by and between the several persons whose names and seals are hereunto subscribed, that is to say, Joshua Aiken, of Peoria, and Isaac Galland, of Commerce, in the state of Illinois; Samuel Marsh, Benjamin F. Lee, William E. Lee, George P. Shipman, Henry Seymour, all of the city of New York; Edward C. Delevan, and Erastus Cerning, of the city of Albany.

Whereas, the said Joshua Aiken, Robert E. Little, and Isaac Galland as agents, acting for, and in behalf of the persons and parties, herein before named, have purchased certain lands, situated, lying and being in the Wisconsin Territory, between the

Mississippi and Des Moines rivers, part of the tract reserved in a certain treaty made on the 4th day of August, one thousand eight hundred and twenty-four, between the United States and the Sac and Fox nations or tribes of Indians, amounting in the whole, to the sum of about twenty thousand dollars, the title to which premises already purchased, is at present in the name of Eli Goodwin, Benjamin F. Lee, William E. Lee, Joshua Aiken, and Isaac Galland, all parties hereto, except the said Eli Goodwin, and the said Aiken, and Little, authorised by the other persons and parties to these presents to invest a farther sum in their discretion, in the purchase of other portions of same the premises, for and on account of the parties hereto, as hereinafter defined from time to time, as they may have opportunity, not exceeding in the whole, the sum of seventy-five thousand dollars, including the above twenty thousand dollars, the title to all which premises is intended to be vested in the persons hereinafter named as joint tenants, and not as tenants in common, for the benefit of the parties hereinafter mentioned.

Now, therefore, in consideration of the premises, and in order to the more efficient, careful, and advantageous management of said property, and for the greater facility in obtaining titles, and ascertaining the quantity to which, by said purchases, the parties hereto may be entitled, and, also, in the view of dividing the said premises among and to the several persons and parties, who may be entitled to portions thereof, by these presents, in fee simple, as tenants in common, the said parties, hereto individually and not jointly, each for himself, his heirs, executors, administrators, and assigns, covenants, agrees to, and with the others, and each of them, and to, and with them, and each of their heirs, executors, administrators, and assigns, respectively, as follows, in respect to the said property so purchased, or hereafter to be purchased, that is to say,

Firstly. That the title to the property already purchased, shall be conveyed to, and duly vested in, Joshua Aiken, of Peoria, and Isaac Galland, of Commerce, in the state of Illinois, Samuel Marsh, and William E. Lee, of the city of New York, and Edward C. Delavan, of the city of Albany, as joint tenants, and not as tenants in common, in trust for the persons and parties interested therein, as hereinafter defined, and the title to all land hereafter purchased or acquired by the said Aiken and Little, in the said district of country, shall be taken in the names of the said trustees, as joint tenants, and not as tenants in common, for the benefit of the parties hereto. And it is hereby mutually agreed and understood, by and between the parties hereto, that the interest and right of said parties, in and to the premises already purchased, in pursuance hereof, is as follows, that is to say—the whole into forty-eight shares or parts to be divided; the said Joshua Aiken,

and George P. Shipman, jointly nineteen undivided forty-eighth parts of the whole of said premises; the said George P. Shipman in his own two undivided forty-eighth parts; the said Isaac Galland, eight undivided forty-eighth parts; the said Edward C. Delevan, four undivided forty-eighth parts; the said Samuel Marsh, two undivided forty-eighth parts; the said Benjamin F. Lee, three undivided forty-eighth parts; the said William E. Lee, six undivided forty-eighth parts; the said Erastus Corning, two undivided forty-eighth parts; the said Henry Seymour, two undivided forty-eighth parts.

Secondly. And the parties hereto mutually covenant and agree to, and with each other, and each for himself, to assume and pay on account of, and for the purchase money, expenses and improvements of said premises, purchased, and to be purchased in the following shares and proportions, that is to say—the said Isaac Galland, eighth forty-eighth parts, of the whole; the said Edward C. Delevan, eight forty-eighth parts; the said Samuel Marsh, four forty-eighth parts; the said Henry Seymour, four forty-eighth parts; the said B. F. Lee, four forty-eighth parts; the said William E. Lee, eight forty-eighth parts; the said Shipman and Aiken, jointly, four forty-eighth parts; the said George P. Shipman in his own right, four forty-eighth parts, and the said Erastus Corning, four forty-eighth parts; at such time as the same shall be required to meet the drafts and notes already made, or which may hereafter be made, by the said Aiken and Little, or either of them, or by any other agent or agents duly authorised, on account of the premises already purchased, or hereafter to be purchased, under these presents, and for this purpose the parties hereto respectively agree to accept and pay any draft or drafts, which the said trustees, their agent, or agents, or their treasurer, by them duly authorised and appointed, shall at any time make upon them, or any of them, for their shares or interests, as aforesaid.

Thirdly. And the parties hereto mutually covenant and agree, that the said trustees, or a majority of them, shall have power, and it shall be their duty, 1st, to cause the title to said land and property to be thoroughly examined and established, in such form of proceeding as they may be advised to be proper, to protect the parties in interest against any loss or question on account thereof; 2d, to cause the land purchased to be surveyed, so that the exact quantity of land acquired by the parties hereto, by the purchases already made, or hereafter to be made, as herein provided, shall be ascertained; 3d, out of the said premises they shall cause to be surveyed and laid out, such sites for towns, villages, and cities, as they may deem eligible and important for such purposes; of all which sites they shall have surveys and maps made, and shall furnish each of the parties to these presents, with copies thereof, they

shall also cause the said property to be thoroughly examined in reference to water power and hydraulic privileges, and such points as may be designated for such purposes, they shall cause to be laid out in reference thereto, and give account thereof to the parties, to these presents as hereinafter provided; 4th, and the said trustees are hereby authorized to sell and convey, from time to time, as they may find opportunity, any part of the lands so purchased, on such terms as to payment, and to take such securities for the purchase money or any part thereof, as they shall think fit; 5th, and the said trustees, or a majority of them, are also authorized to make all contracts, and do all lawful things and acts that may be necessary or proper to carry into effect the objects of this agreement, and to promote the interest of the parties concerned, in respect to the property purchased and every part thereof; 6th, to employ substitutes, and authorize such attorney or attorneys, agents and clerks, as may be necessary in executing the objects of this agreement, and in the care and management of said property, and to allow them such compensation for their services as they may think fit.

And in case of the death of any of the said trustees occurring before the trusts hereby created are perfected, as herein provided, it is hereby mutually agreed, that the surviving trustees shall designate some other person to supply the place of such decedent, and the person so designated, shall take the place of such other person to supply the place of such a decedent, and the person so designated shall take the place of such decedent, and execute faithfully all the duties hereby created in the same manner, as such decedent if living, could and ought to have done.

Fourthly. It is hereby mutually agreed by and between the parties hereto, that the purchase money and the costs of improvements, taxes and assessments, which have been paid, or which at any time hereafter shall be paid by the said trustees, or any of them, or by any of the parties hereto, or by any other person interested in the avails of the said property, are to be charged upon the said property, and repaid *out of the first proceeds* thereof; and the proceeds of said property already purchased, or hereafter to be purchased under this agreement, and the proceeds of improvements made and to be made thereon, or on any part thereof, with all the rents, income and avails thereof, however arising or accruing, after paying all the charges and disbursements for such improvements, taxes and assessments, care and management, shall be first applied to the repayment of the said purchase money, by whomsoever paid or advanced, with interest thereon, and to the extinguishment of any sum which shall remain due and unpaid to any person or persons on account thereof, which payment shall first be made to the persons, who have paid most on the shares they are by this agreement bound to

pay for, till the balance of such payments shall be reduced to the same on each share, and then prorata upon all the shares till the whole cost is repaid, so that the said premises, and every part thereof, may be free, clear and unencumbered.

Fifthly. And it is mutually agreed that the said trustees shall and will, in good faith, to the best of their ability, so manage and dispose of said property, and of every part thereof, as to promote the interest and advantage of all persons having a right to share in the avails and proceeds thereof, and that they shall and will, after paying all just and proper expenses for taxes, assessments, surveys, agencies, council fees and improvements as aforesaid, growing out of the proper care and management of the said property, and every part thereof, faithfully at all times, and particularly on the first Monday of July, in each and every year hereafter, account for, and pay to the parties hereto, and each of them, his or their assigns or personal representatives, the portion of the avails and proceeds of the said property, which he or they may be entitled to by virtue hereof, and the said trustees shall keep a regular book of account or accounts, in which shall be entered all their purchases, sales, and proceedings in respect to said property and every part thereof, which books shall at all times be open to the inspection of any of the parties interested in the said premises, and they shall semi-annually on the first days of January and July, in each and every year, render an account of their doings to each of the parties interested, if required.

Sixthly. And it is mutually covenanted and agreed also, that whenever the trustees shall have realized or received money from the sale or other disposition of the property, to pay up and satisfy the whole amount of the purchase money, and improvements and interest thereon, over and above the taxes, assessments and expense of management, the power of the said trustees, to sell said property shall cease and determine, and be at an end, and they shall forthwith thereafter, and with as little delay as the nature of the business will admit, proceed to make partition of said premises, and to lay off and divide the same in manner following, that is to say, they shall first divide the whole of said premises into two classes, viz; in the first class shall be embraced such portion of said property as may have been laid off and reserved for the sites of towns and villages and cities, and hydraulic privileges, and in the second class shall be embraced all the residue of said property, and they shall thereupon divide each of the said sites of towns and cities, and hydraulic privileges embraced in the first class into forty-eight parts of equal value, quantity and quality relatively considered; and the residue of said premises embraced in the second class, shall be divided into forty-eight parts of equal value, quantity and quality relatively considered, and the property thus divided and apportioned, shall be distributed

Interest proportionate

among the parties and persons in the portions hereinafter stated, and which distribution shall be made by the said trustees for the time being by lot, so as to secure to each his just share in each class as above specified. And sixty days notice shall be given by the said trustees to each of the parties interested, of the time and place of such distribution, and upon such division, they shall forthwith by good and sufficient deed or deeds, release and convey in fee to the several persons and parties interested, their heirs and assigns forever, all the said residue of the said property in the shares and proportions following, that is to say; to the said Joshua Aikin and George P. Shipman jointly, nineteen forty-eighths parts; to the said George P. Shipman in his own right, two forty-eighth parts; to the said Isaac Galland, eight forty-eighth parts, to the said Edward C. Delevan, four forty-eighth parts; to the said Samuel Marsh, two forty-eighth parts; to the said Benjamin F. Lee, three forty-eighth parts; to the said William E. Lee, six forty-eighth parts; to the said Erastus Corning, two forty-eighth parts; to the said Henry Seymour, two forty-eighth parts; and the trustees shall also at the same time, divide among the said parties, in the same proportion, all the money, securities for, and evidences of debt, which they may have on hand, accruing from the said property, or any part thereof.

Seventhly. It is understood that the said Aikin and Little shall not, directly or indirectly during the continuance of these presents, make any purchase of lands in the said districts of country, on any other account, except by the consent of the trustees for the time being, until after the said fund of seventy-five thousand dollars shall have been fully invested by them; and if, after that, they shall make any purchases of the said lands, the parties hereto shall have the refusal thereof at cost, on the terms and in the proportions herein expressed.

Eighthly. The said trustees shall give to each one of the parties interested a certificate, under the hands and seals of at least two of them, one of whom shall be president or chairman of the board of trustees, stating the interest which by virtue of these presents he is entitled to in the premises.

And it is expressly agreed that if any assignment be made of any interest hereby created, the same shall be made on the said certificate, which shall be therupon surrendered to the trustees at their office in the City of New York, and a new certificate shall thereupon be issued to the proprietor or proprietors, and no sale or transfer of any interest herein, shall be obligatory upon, or operate as a notice to the said trustees of such assignment or transfer, unless the above conditions be complied with.

And the said parties, who are designated and appointed trustees for the objects and purposes herein expressed, do by the execution

Sac

of these presents, declare their assent to the trusts hereby created.

In testimony of their assent whereunto, the said parties have hereunto set their hands and seals the day and year first above written.

In presence of

Petitioners state that the foregoing is a printed copy without the signatures of the parties thereto.

Petitioners farther state that each and all of said respondents, as well as petitioners, pretended and claimed publicly to represent by purchase from proper and genuine half breeds of the Sac and Fox nations aforesaid, when in fact and in truth, there were not and never had been so many half breeds, as are named, and set out, and claimed to be represented by purchase, by petitioners and respondents, and petitioners again aver and charge the truth to be, that the number of half breeds, duly entitled to the lands aforesaid, under the treaty and act of Congress aforesaid, did not exceed the number herein before stated, and consisted of the persons named as half breeds, a list of which is given on the second page of this petition.

They farther state, that the parties to the proceedings aforesaid, or some of them through their counsel or solicitors, well knowing that a large number of claims set up to the land embraced in said suit, were either obtained from persons having no interest in said land, or were fraudulently and falsely concocted and brought into existence in the names of persons who did not exist, or fraudulently obtained from genuine half breeds, known to have previously sold their interest, but whose interest, with a slight alteration in the Indian name, might be reasserted with some hope of success, and also well knowing that many genuine interests or claims of real half breeds were not brought forward in said suit, for the purpose in some cases, of procuring an allowance to them of claims known to have no foundation in right or justice, and in others to procure a larger interest than they would be entitled to in case all outstanding claims had been permitted to come in and be asserted, conceived and originated, it is believed during the April term of the court of 1841, at all events pending the proceedings, a compromise or plan to induce the court at that term, to make a decree without examination of titles, without evidence of any sort or description, and at such time in the term as would attract the least notice, thereby securing to said petitioners and defendants the whole of the said tract of land, and excluding all others, whether not notified, unable to attend the court and present their claims, or induced by misrepresentation to neglect them. After this combining and confederating together for the aforesaid purpose, said parties, their solicitors or some of them, as they found opportunity, stated to persons interested, and in attendance at said April term,

1841, the said suit of Spalding and others, vs Antaya and others, from its great magnitude and importance, could not and would not be tried at that term, thereby inducing them to leave and go home. Some of said solicitors, actually engaged for both petitioners and defendants, to a very large extent, and very desirous to effect the said compromise, without being employed and without authority, assumed to, and did represent parties, one or more, in said suit, and aided in such compromise, representing parties who were induced to believe there would be no trial at that term, and had gone home. Said concocting, planing, confederating and combining was mainly carried on, it is believed, at the room of one H. Key, solicitor of Marsh, Lee and Delavan, then in Fort Madison, in attendance upon said court; upon a bed in his room the papers were kept, and when any person unacquainted with, or not in the plot, entered, they were secreted by turning the bed clothing over them, and uncovering and resuming their labors, when dangerous or obnoxious company had left.

That in pursuance and as the result of such combination and covinous confederation, the said parties or their attorneys, or some of them, drew up and prepared a certain paper, which they intended to procure the adoption of by the court, as its decree in the case, which paper seems to be the work of different persons, being in different styles of language and hand writing, is on file in this court in the case of Spalding et. al. aforesaid, is hereby referred to and made a part hereof, and this honorable court requested to inspect the same.

Said paper is in the following words and figures to wit;

TERRITORY OF IOWA, }
LEE COUNTY, { ss
JOSIAH SPALDING, et. al. }
vs. { Petition for Partition.
EUPHROSINE ANTAYA, et. al. }

DECREE.

In this case the said defendants having appeared by their council respectively, and filed their answers to the petition, and stated and produced their respective claims, and exhibited their proofs of title, and in some cases the original conveyances and the other authentic copies of conveyances, by which the same are held, and their said respective claims, and those of the petitioners, by their counsel respectively, being by consent submitted to the court for consideration and partition according to law, and the court being satisfied by sufficient proof, that the publication required by the act entitled "An act to provide for the partition of real property," have been duly made, and no other persons known or unknown, having appeared or made any claim or objection to said partition,

and the said claims of the parties now before the court, petitioners and defendants, and their respective proofs and conveyances being by the court heard and considered, it is therefore by the consideration of the court and with the consent of the said parties, this 8th day of May, 1841, ordered and adjudged that the claims of rights of the said parties respectively to the undivided portions of the land mentioned and described in said petition, amount in the whole to one hundred and one equal portions, and that of these, Marsh, Lee and Delavan, trustees for the claimants under the articles of association, dated October 22nd, 1836, filed in this case and as trustees for persons interested under said articles, are entitled to forty-one shares and five-eighths of a share.

The defendant, John Wright, to one-fourth of a share.

The defendant, Cyrus Peck, to one-eighth of a share.

The defendants, Samuel Abbott and Abraham Wendell, to one-half share.

The defendant, William Phelps, to two shares.

The defendant, Ebenezer D. Ayres, to one-half share.

The defendant, William Gillis, to one share.

The defendant, Henry McKee, to one share.

The defendant, Wilson Overall, to one share.

The defendant, Garret V. Denniston, to one-half share.

The defendant, James L. Schoolcraft, to one-half share.

The defendant, Elisabeth Hunt, to one share.

The defendant, Rosella O'Gliem, to one share.

The defendant, Mary L. Murdock, to one share.

The defendant, Eliza O. Perkins, to one share.

The defendant, James L. Burtis, to one share.

The defendant, Margaret Farrar, to two shares.

The defendant, James Muir, H. T. Reid, guardian, to one share.

The defendant, Thomas Connelly, to one share.

The defendant, John C. Ward, to one-half share.

The defendants, Abijah Fisher, D. W. Kilbourne and Henry S. Austin, to one share.

The defendants, D. W. Kilbourne and Henry S. Austin, to one share.

The defendant, Edward Kilbourne, to one-half share.

The defendant, John Betram, to one-half share.

The defendant, Edwin Manning, to one-fourth of a share.

The defendants, Edwin Manning and Sheldon Norton, to one-half share.

The defendants, Wright, McDaniel and Darrah, to one share and three-quarters of a share.

The defendants, Manning and Hearn, to one share.

The defendant, Augustus Gonville, to one share.

The defendant, Benjamin Franklin Messenger, to one share.

The defendants, the heirs of Nathaniel Knapp, to two shares and seven-eighths of a share.

The defendant, Henry Brown, to one-eighth of a share.

The defendants, William, John, and Dalzell Smith, to two share and a half share.

The defendant, William H. Smith, to two shares.

The defendant, John H. Lines, to one share.

The defendant, William Price, to one share.

And the defendant, Charles Thompson, to one share.

And one equal share, or undivided part, is hereby reserved, undivided among the other claimants, for the defendant, Euphrosine Antaya, in case she should, hereafter, appear and prove the same.

And that the petitioners are respectively entitled to the following shares and proportions, to wit:

Josiah Spalding, one full share, and three-eighths of a share.

Archibald Gamble, one full share, and one-eighth of a share.

Patrick Walsh, one full share.

Etienne Provost, one-half of a full share.

John and Edward Walsh, two full shares, and seventeen one hundred-twentieths of a share.

Heirs of Henry K. Ortley, two-fifths of a share.

Greene Erskine, one full share, and nineteen twenty-fourth parts of a full share.

Joseph Ridgeway, trustee of George Patch, one-third part of a full share.

Herman C. Cole, one-fourth part of a full share.

Stephen Gore, one-eighth part of a full share.

John B. Sarpy, one-third of a full share.

Edmund H. McCabe, one-third of a full share.

Hugh Tumulty, one full share.

James R. McDonald, one full share.

Joseph W. Walsh, one full share.

John O'Rourke, one-half of a full share.

Antoine Garcia, and Margaret, his wife, one-half of a full share.

Angelique Laguthrie, now Mattabon, one-half of a full share.

Michael Tesson, one full share.

Heirs of Otis Reynolds, eleven twenty-fourth parts of a share.

Heirs of James A. H. Palmer, one-third of a full share.

George H. Crossman, five-sixths of a full share.

Antoine Leclaire, seven full shares.

All which said shares and portions of said shares, petitioners and defendants, respectively are hereby, by this court, and the authority thereof, adjudged and decreed to be confirmed, and the said shares and interests, are hereby respectively confirmed accordingly.

And it is hereby further ordered and decreed, that partition be made according to the act aforesaid, of the land mentioned and described, in the said petition, equally, and fairly, and impartially, among the aforesaid parties, petitioners, and defendants, according to said act. And that the said partition be made, according to the reservation of the Sac and Fox Half Breeds, filed and agreed upon, by the said parties, in the case (marked B,) and that all other persons, whatever shall be hereafter barred and concluded from any title or claim in said lands.

And this court doth farther appoint as commissioners, to make the said partition herein decreed, Samuel B. Ayres, Harman Booth, and Joseph Webster, with full power and authority, to make the said partition, into one hundred and one shares of equal value, and report the same to this court, and to do all acts in relation thereto authorised, and required, by the aforesaid act, and to make return of said partition, of said shares, and of their proceedings as required by said act, to this court for confirmation, and such other and farther proceedings, as to the court shall seem right and according to law.

And it is further ordered and decreed, that no partition be made under this decree of the land included in the patent to Thomas F. Reddick, described as follows, to wit: (Here follows the boundaries of the 640 acres, included in the patent, covering three or four pages,) without the consent of the heirs of the said Reddick.

Petitioners farther state, that the parties and their counsel aforesaid, having previously heard an intimation from the court, that it would adjourn that week, and having taken the preparatory and precautionary measures, herein before stated, waited until the night of the 8th of May, 1841, which was Saturday night, the term having commenced in April, and continued to that day, when, near the hour of midnight, after all the other business of the court had been finished, when all persons not compelled by some arbitrary necessity to remain, had left the court—when the judge of said court, from fatigue and long endurance of mental exertion, was disqualified and unwilling to undertake, to hear, investigate and decide the titles of all the claimants to one hundred and nineteen thousand acres of land. The mere reading of the papers, and titles accompanying them, being the work of days, if not weeks, of endless and uninterrupted labor. And when it was impossible for said judge even to have examined a single claim, without continuing his court into the sabbath, they the said parties or their attorneys as aforesaid, called up for hearing the said case, and falsely and fraudulently represented by their united voices to the said judge, that all persons interested in said Half Breed Tract, had made their appearance in said court, and had by mutual agreement set-

ties and adjusted their interest or rights to the same among themselves, and thereupon the said judge confiding in the fraudulent and false statements so made, for the purpose before stated, without examining or even reading the said petition and claims accompanying it, the answers of defendants or the titles accompanying the same, or examining any testimony, or even the decree or paper intending to be made a decree, ordered the same to be enrolled, and in due time signed the same.

Petitioners farther state, the partition law of the Territory of Iowa, upon which the said decree was based, and which is referred to in said decree, require in case a summons is returned, not found, as to any or all of the defendants, that a certain notice shall issue and be published for twelve weeks successively, once in each week, in the most convenient newspaper to the place of litigation, and also four weeks in same manner, in a newspaper at the seat of Government of the Territory of Iowa, that at the time of signing the said decree, there was no proof of any publication of such notice made in the case, except that copied and found on pages 13, 14 and 15 of this bill, which is of but one notice, and they charge and aver, that said confederates well knew, that the original summons issued in the case had been returned "not found", as to all the defendants, and that proof of publication as required by law had not been made, and yet that they fraudulently and falsely, and for the purposes aforesaid, induced the court to believe, and the court confiding in their false representations as aforesaid, did believe that proof of publication as required by law had been made, and was on the files and records of the court, and was thereby in connection with the other statements and false representations made, induced to sign and consent to said decree:

Petitioners farther state that on 5th day of October, 1841, the decree having been rendered on 8th of May of same year, nearly five months before the following notice and affidavit of publication was filed.

TERRITORY OF IOWA, LEE COUNTY, to wit :
 JOSIAH SPALDING AND OTHERS, }
 vs {
 EUPHROSINE ANTAYA AND OTHERS. }

DISTRICT COURT FOR LEE COUNTY, APRIL TERM, 1840.

Petition for Partition.

Notice is hereby given, that a petition was presented and filed on the 14th day of April, A. D., 1840, in the District Court of Lee County, aforesaid, by Josiah Spalding, Archibald Gamble, Patrick Walsh, Etienne Provost, John and Edward Walsh, H. K. Ortley, Greene Erskine, Joseph Ridgeway, assignee of George Patch, Herman C. Cole, Stephen Gore, John B. Sarpy, Edmund

H. McCabe, Hugh Tumulty, James R. McDonald, Joseph W. Walsh, John O'Rourke, Antoine Garcia and Margaret his wife, Angelique Mattabon, formerly Laguthrie, Michael Tesson, Heirs and legal representatives of Otis Reynolds, deceased, Heirs and legal representatives of J. A. H. Palmer, deceased, George H. Crossman and Antoine LeClaire as petitioners, and against Eu-phrosine Antaya, Elisabeth Hunt, Eliza O. Perkins, (late Gilder-sleeve,) formerly Johnson, Mary L. Murdock, formerly Johnson, Rosella O'Gliem, formerly Johnson, James Muir, Thomas Connelly and Betsy Farrar as defendants, and is now pending, wherein the said petitioners pray that a partition be made of the following real estate, to-wit: all that tract of land commonly called the Half Breed Tract, situate in Lee county aforesaid, lying between the Mississippi and Desmoine rivers, bounded on the north by a line drawn from the North-West corner of the State of Missouri, East to the Mississippi river, and containing one hundred and nineteen thousand acres, more or less, and they the said defendants AND ALL OTHER PERSONS INTERESTED in the property herein described, are hereby required to appear and answer to the said petition on or before the first day of the next term of the District Court of Lee county, aforesaid, to be begun and holden on the first Monday of October next, or the proceedings had in the cause thereafter, will be binding and conclusive on them forever.

JOHN H. LINES,

Clerk District Court.

REID & JOHNSON,

Attorneys for Plaintiffs.

P. S. All persons interested in the Half Breed Tract, as claimants or otherwise and desirous to obtain information in relation to said tract, will have their requests attended to, by addressing them post-paid to Reid & Johnson, Fort Madison, Lee County, Iowa.

TERRITORY OF IOWA, }
DESMOINES COUNTY. } *sct.*

I, James Edwards, editor and publisher of the Hawkeye and Patriot, a public newspaper printed in Burlington, in said Territory do hereby certify that the notice which is hereto attached, was published in the said Hawkeye and Patriot for twelve weeks successively, and that the first publication thereof was made on the 2nd day of July, A. D. 1840.

JAMES G. EDWARDS, Editor and Publisher Hawkeye.
Sworn to and subscribed before me this 28th day of September, 1841

JOHN L. DUNLAP,

Clerk District Court.

{ SEAL }

Printer's fees, \$19.75.

Petitioners farther state that in pursuance of said decree, thus fraudulently obtained by the collusion, combination and confederacy aforesaid, the said Samuel B. Ayres, Herman Booth and Joseph

Webster, commissioners as aforesaid, proceeded to and did discharge the duties assigned them, and on the 6th day of October, 1841, the said District Court being then in session, made report of their doings in the premises to the said court, said report bearing date 4th of the same month, at Fort Madison aforesaid.

Said report is accompanied by a map of the land thus fraudulently partitioned, is very voluminous, and if copied would, in the judgment of your petitioners, encumber the record in this case, and is therefore not given, but referred to and made a part of this petition, and petitioners pray that the same may be inspected by this court.

They farther state that on said 6th day of October, 1841, the said court at the instigation of the confederates aforesaid, or some of them, or their said attorneys, made and caused to be enrolled the following decree, to wit:

TERRITORY OF IOWA, }
COUNTY OF LEE, } ss

At a District Court of the First Judicial District of said Territory, holden at the Court House in Fort Madison, in said county, on the 6th day of October, 1841. Present, The Hon. Charles Mason, Judge.

JOSIAH SPALDING AND OTHERS, }
vs
EUPHROSINE ANTAYA AND OTHERS. }

Samuel B. Ayres, Herman Booth and Joseph Webster, the commissioners appointed by the decree made in this cause on the 26th day of April, 1841, to make partition in the manner specified in said decree, having this day presented their report, bearing date at Fort Madison, on the 4th day of October, whereby it appears that they have executed the duties of their appointment, and have divided the lands mentioned in the proceedings in this cause, into one hundred and one equal shares, excepting certain Islands in the rivers Desmoines and Mississippi, which are so situated that partition can not be made without great prejudice to the owners thereof, and have recommended that a sale of said Islands be made, and on hearing William Silliman and Hugh T. Reid of council for the parties in this cause, and Orville H. Browning and Milton D. Browning of council for certain persons not parties to this suit, and by consent of all the parties to this suit and of their council—It is ordered, adjudged and decreed, and this court by virtue of the power and authority therein vested, doth order, adjudge and decree, that the said report and all and singular the matters and things therein contained, be and the same hereby are ratified and confirmed.

And it is further ordered, adjudged and decreed that the clerk of this court shall make the allotment of those shares pursuant to the

statute in such cases made and provided, and that in making such allotments, the said clerk write the fractions of shares mentioned in said report in such manner as he may deem expedient, so that persons owning fractions of shares, may together draw entire shares to be held by them in common, in proportion to their respective fractional parts.

And it is further ordered, adjudged and decreed that the partition made by said report, and which is to be perfected by the allotment of those shares, be firm and effectual forever.

And it is further ordered, adjudged and decreed, that the said commissioners sell at public auction to the highest bidder, all the Islands situated in the rivers Desmoines and Mississippi, in their said report mentioned, except the Island called the *Cut-off*, situated in the river Desmoines, within the jurisdiction of the State of Missouri, and that said commissioners give notice of the time and place of such sale, for the time and in the manner prescribed by law in respect to sales of land by sheriffs upon execution; that the said commissioners sell said Islands on a credit of one year as to two-thirds of the purchase monies, to be secured by the negotiable promissory notes of the purchasers, and their mortgages of the property to be purchased by them respectively, and as to the remaining one-third of the purchase money, that the same be paid in cash at the time of sale, and in default of the payments before mentioned that the property be forthwith resold by said commissioners without further notice, and that before proceeding to make such sale as aforesaid, the said commissioners give security pursuant to the statute in such case, made and provided.

And it is further ordered, adjudged and decreed, that the clerk of this court ascertain and report whether there be any general incumbrance by mortgage, judgment, decree or otherwise, upon any portion of the Islands so directed to be sold as aforesaid.

And it is further ordered, adjudged and decreed that after completing such sale, the said commissioners shall report their proceedings to this court, with a description of the different parcels of land sold to each purchaser, and the price paid by him.

And it is further ordered, adjudged and decreed, that all the costs and expenses of the proceedings in this case, including the sum of nine hundred and sixty six dollars, (\$966.00) for the costs and expenses of said commissioners as specified in their said report be paid in the first place by the petitioners, and that the other parties reimburse to the said petitioners, the respective proportions of the said parties of the said costs and expenses, in the ratio of their respective interests, within sixty days after the date of this decree, and that the said costs and expenses be deemed a lien on such interest until the same shall be paid, and that execution issue on behalf of the petitioners, against such of the said defendants as shall

omit to pay their respective portions of said costs and expenses until the expiration of said sixty days for their respective proportions of said costs and expenses, and the expenses of collecting the same.

And it appearing that by some inadvertance and mistake, the aggregate amount of the shares and fractions of shares in said decree mentioned is equal to one hundred and two shares and one-third of a share, and that the number of shares provided for by the decree and report aforesaid, is one hundred and one shares only, leaving one share and one-third of a share unprovided for, it is by consent of all parties, their attorneys and council further ordered that the said mistake be corrected by deducting from the portion awarded to Marsh, Lee & Delevan, trustees, &c., the fractional part of five-eights of one share, leaving the said trustees the number of forty one full shares only, and by deducting from the portion awarded to the defendant, Antoine Leclaire, five eighths of one share, leaving to said Leclaire, six shares and three-eighths of one share only, and by deducting from the portion awarded to the defendant, Greene Erskine, one-twelfth part of one share, leaving to said Erskine one share and seventeen twenty-fourths of a share.

Petitioners farther state that on next day, that is to say, October 7th, 1841, the Clerk of the said court, the court being in session, proceeded to arrange, draw and allot the several shares in accordance with the order and decree last aforesaid, which drawing and allotment, and confirmatory decree is in the words and figures following, to wit:

**TERRITORY OF IOWA, DISTRICT COURT OF THE FIRST
JUDICIAL CIRCUIT FOR LEE COUNTY,**

October Term, 1841.

JOSIAH SPALDING, et. al. }
vs. }
EUPHROSINE ANTAYA, et. al. } *October 7th, 1841.*

Pursuant to the order made in this cause on the 6th day of the present month, and the statute in such cases made and provided, the clerk of this court now proceeds in open court, at the Court House in Fort Madison, in said county, to make allotments of the shares mentioned in said order, by first numbering the shares corresponding with the numbers mentioned in the report of the commissioners filed in this case, and with the numbers marked on the map or plat of the lands to be divided, annexed to said report, and then drawing the names of the corresponding owners after the manner of selecting a petit jury, and the result of such allotments is as follows; the names of the owners of the respective shares as the same are specified in said report, and as their names were drawn by said clerk, being set opposite the numbers drawn by them respectively.

Share number 1 was drawn by	Marsh, Lee & Delavan, trustees &c.
" " 2 "	William Phelps.
" " 3 "	Rosalie O'Gliem.
" " 4 "	Marsh, Lee & Delavan, &c.
" " 5 "	Charles Thompson.
" " 6 "	Patrick Walsh, $\frac{1}{2}$ share.
" " 7 "	Etienne Provost, $\frac{1}{2}$ share.
" " 8 "	Marsh, Lee & Delavan, &c.
" " 9 "	Marsh, Lee & Delavan, &c.
" " 10 "	George H. Crossman, five-sixths of a share. Heirs of Otis Reynolds, one-sixth of a share.
" " 11 "	William H. Smith.
" " 12 "	John B. Sarpy, $\frac{1}{2}$ of a share. Edmund H. McCabe, $\frac{1}{2}$ of a share, Heirs of J. A. H. Palmer, $\frac{1}{2}$ of a share.
" " 13 "	Margaret Farrar.
" " 14 "	John Walsh and Edward Walsh.
" " 15 "	Wright, McDaniel and Darrah, $\frac{1}{2}$ of a share. Edwin Manning, $\frac{1}{2}$ of a share.
" " 16 "	Marsh, Lee & Delavan, &c.
" " 17 "	Marsh, Lee & Delavan, &c.
" " 18 "	Henry S. Austin, $\frac{1}{2}$ share, John Bertram, $\frac{1}{2}$ share.
" " 19 "	Thomas Connelly.
" " 20 "	William Gillis.
" " 21 "	Antoine Leclaire.
" " 22 "	Marsh, Lee & Delavan, &c.
" " 23 "	Josiah Spalding, $\frac{1}{2}$ of a share, Archibald Gamble, $\frac{1}{2}$ of a share. James, William, and Dalzell Smith, $\frac{1}{2}$ share.
" " 24 "	Marsh, Lee & Delavan, trustees &c.
" " 25 "	Marsh, Lee & Delavan.
" " 26 "	Greene Erskine, seventeen twenty-fourths of a share, Heir of Otis Reynolds, 7 twenty-fourths of a share.
" " 27 "	Wright, McDaniel & Darrah.
" " 28 "	Abijah Fisher, $\frac{1}{2}$ of a share, D. W. Kilbourne, $\frac{1}{2}$ of a share, Henry S. Austin, $\frac{1}{2}$ of a share.
" " 29 "	Marsh, Lee & Delavan, trustees &c.
" " 30 "	Mary L. Murdock.
" " 31 "	Marsh, Lee & Delavan, &c.
" " 32 "	William Phelps.
" " 33 "	James R. McDonald.
" " 34 "	Marsh, Lee & Delavan, &c.
" " 35 "	Marsh, Lee & Delavan, &c.
" " 36 "	Marsh, Lee & Delavan, &c.
" " 37 "	John H. Lines.

Share number 38 was drawn by

"	"	39	"	"	{ Joseph W. Walsh, $\frac{1}{2}$ share, An-
"	"	40	"	"	{ gelique Mattabon, $\frac{1}{2}$ share.
"	"	41	"	"	{ Patrick Walsh, $\frac{1}{2}$ share,
"	"	42	"	"	{ John O'Rourke, $\frac{1}{2}$ share.
"	"	43	"	"	Antoine Leclaire.
+	"	44	"	"	(Samuel Abbot and Abraham Wen-
"	"	45	"	"	dell, $\frac{1}{2}$ share, Jas. L. Schoolcraft, $\frac{1}{2}$
"	"	46	"	"	share.
+	"	47	"	"	Josiah Spalding.
"	"	48	"	"	Marsh, Lee & Delavan, &c.
"	"	49	"	"	Wilson Overall.
"	"	50	"	"	Marsh, Lee & Delavan.
"	"	51	"	"	John & Edward Walsh.
"	"	52	"	"	Marsh, Lee & Delavan, &c.
"	"	53	"	"	Marsh, Lee & Delavan, &c.
"	"	54	"	"	Heirs of H. K. Ortley, three fifths
"	"	55	"	"	of a share, Herman C. Cole, $\frac{1}{2}$ of
"	"	56	"	"	a share, Joseph Ridgeway, trustee
"	"	57	"	"	of George Patch, $\frac{1}{2}$ of a share.
"	"	58	"	"	John, William, and Dalzell Smith.
"	"	59	"	"	Marsh, Lee & Delavan, &c.
+	"	60	"	"	Marsh, Lee & Delavan.
"	"	61	"	"	Joseph W. Walsh, $\frac{1}{2}$ share, Antoine
"	"	62	"	"	Garcia & wife, $\frac{1}{2}$ share.
"	"	63	"	"	Hugh Tumulty.
+	"	64	"	"	John C. Ward, $\frac{1}{2}$ share, Garret V.
"	"	65	"	"	Denniston, $\frac{1}{2}$ share.
"	"	66	"	"	James Manning & Sheldon Norton,
"	"	67	"	"	$\frac{1}{2}$ share, Ebenezer D. Ayres, $\frac{1}{2}$ share.
"	"	68	"	"	The heirs at law of Nathaniel Knapp
"	"	69	"	"	Marsh, Lee & Delavan, &c.
"	"	70	"	"	Marsh, Lee & Delavan.
"	"	71	"	"	David W. Kilbourne, $\frac{1}{2}$ share, Ed-
"	"	72	"	"	ward Kilbourne, $\frac{1}{2}$ share.
"	"	73	"	"	Marsh, Lee & Delavan.
"	"	74	"	"	Marsh, Lee & Delavan.
"	"	75	"	"	Elisabeth Hunt.
					John, William, and Dalzell Smith.
					Marsh, Lee & Delavan.
					The heirs at law of Nathaniel Knapp.
					Eliza O. Perkins.
					Greene Erskine.
					Marsh, Lee & Delavan.
					Benjamin Franklin Messenger.
					Marsh, Lee & Delavan, &c.

Share number 76 was drawn by Marsh, Lee & Delavan.

" 77 "	"	Antoine Leclaire.
" 78 "	"	Marsh, Lee & Delavan, &c.
" 79 "	"	James Muir, (H. T. Reid guardian.)
" 80 "	"	Antoine Leclaire.
" 81 "	"	Augustus Gonville.
" 82 "	"	Marsh, Lee & Delavan, &c.
" 83 "	"	Marsh, Lee & Delavan.
" 84 "	"	Marsh, Lee & Delavan, &c.
" 85 "	"	William Price,
" 86 "	"	The heirs at law of Nathaniel Knapp of a share, Henry Brown of a share.
" 87 "	"	Antoine Leclaire, $\frac{1}{2}$ of a share, John Wright, $\frac{1}{2}$ of a share, Stephen Gore, $\frac{1}{2}$ of a share, John & Edward Walsh, $\frac{1}{2}$ of a share.
" 88 "	"	Marsh, Lee & Delavan, &c.
" 89 "	"	Marsh, Lee & Delavan, &c.
" 90 "	"	Michael Tesson.
" 91 "	"	Marsh, Lee & Delavan, &c.
" 92 "	"	Marsh, Lee & Delavan, &c.
" 93 "	"	Marsh, Lee & Delavan, &c.
" 94 "	"	Antoine Leclaire.
" 95 "	"	Archibald Gamble.
" 96 "	"	Marsh, Lee & Delavan.
" 97 "	"	Marsh, Lee & Delavan.
" 98 "	"	Antoine Leclaire.
" 99 "	"	James E. Burtis.
" 100 "	"	William H. Smith.
" 101 "	"	Marsh, Lee & Delavan.

Whereupon the drawing and allotment above mentioned having been completed in manner aforesaid, with the result aforesaid, on motion of William Silliman, of counsel for certain of the parties, and by consent of all the parties to this suit, it is ordered, adjudged and decreed, and this court doth order, adjudge and decree, that above drawing and allotment be confirmed, and that the parties hold the shares whose numbers are opposite their respective names in manner aforesaid, and that the partition made in this cause be firm and effectual forever.

Petitioners farther state, that in their judgement, and as they are advised and believe, they have given all the proceedings in the suit of Spalding and others, partitioning the before herein described Half Breed Tract of Land in Lee County, Iowa, which is essential for the purpose they have in view, but least they have not, they hereby refer to the whole proceedings, from beginning to end, and make the same a part of this petition, and pray that the same may be inspected by the Court.

They farther state that the parties to whom the same was adjudged and allotted by the proceeding aforesaid, consisting of the original petitioners and defendants, and those subsequently made defendants, have, since the termination of the proceedings aforesaid, claimed the whole of said lands, to the exclusion of all others, have sold, devised, leased, improved and cultivated, a large portion thereof, and them, and those claiming and acting under them, are still doing so, and still claiming the whole, to the exclusion of your petitioners as to title, and it is believed of all others, both as to title and occupancy.

They farther state that Joseph Gonville was a half-breed of one of the nations of Indians above referred to, but of which, they cannot positively state, that as they are informed and believe, about the year 1807 or 8 he intermarried with one Francois or Francis Blondeau, also a half-breed of one of the nations aforesaid, both of whom were living at the time of the treaty reservation aforesaid, and entitled, each in their own right to a full, though undivided share or interest in the lands described.

That they had by their marriage four children, to wit; Amelia, Laurent, Jeant or Augustus, and Maurice, one daughter and three sons, all and each entitled in their own right to a full share in the lands described in said treaty and act of Congress.

That previous to the commencement of the proceedings aforesaid, and subsequent to the act of Congress of 1834, Joseph Gonville, the head and father of the family above stated, died intestate, leaving his wife and children above named, and never having sold, bargained, alienated, or in any manner parted with his right or interest in said half-breed lands, so reserved and granted as aforesaid, petitioners aver and charge, that his said right and interest descended by law to his several children named above, and that each of them was by the laws of descent, the proper and legal owner of one-fourth part of the share or interest of the said Joseph so deceased, in addition to their own respective shares as half-breeds.

That prior to the commencement of said proceedings, and subsequent to the act of Congress of 1834, Francis Gonville, mother of said children and wife of said Joseph, also died intestate, leaving her four children above named, and without having sold, bargained, conveyed or in any manner parted with her right or interest in said half-breed lands, so reserved and granted as aforesaid. Petitioners aver and charge that her said interest descended by law to her several children above named, and that each of them by such descent, became the proper and legal owners of one-fourth part each of their mother's interest in said lands, in addition to their own respective shares, and the one-fourth share each, derived from their father the said Joseph.

Petitioners charge and believe, that at the time of the commence-

ment of the proceedings aforesaid, each of the said children, to wit: Amélia, Laurent, Jeaut or Augustus, and Maurice, were each entitled to one and a half full shares or interest in said Half Breed reservation, one full share in their own right respectively, and one-fourth share each in right of their father, and same in right of their mother, having descended to them in the manner above stated.

That Laurent Gonville never married, but engaged in the fur trade in the Rocky Mountains, and was killed in some rencontre with Indians or animals about the year 1836, without having made a will, or having sold, conveyed, or in any other manner parted with his interest in the said half-breed lands, so reserved and granted as aforesaid, and his said interest, amounting to one and a half full shares descended to and became the property of his sister and two brothers, to wit: Amélia, Jeaut or Augustus, and Maurice, making them respectively at the time of the commencement of the proceedings aforesaid, the proper and legal owners of two full shares in said half-breed reservation, one share each in their own right, one-fourth of a share each in the right of their father, same in right of their mother, and the remaining three by decease of Laurent, deriving a half share each from him.

Petitioners state, that in the proceedings aforesaid, it appears that sundry persons claimed seven-eighths of a share in right of Francis Blondeau, but whether meant or intended as the same Francis Blondeau who married Joseph Gonville in 1807 or 8 they cannot say, but suppose if the same person had been intended, she would have been named Gonville, the name of her husband, and not Blondeau, which was her maiden name.

They farther state that one Henry McKee claimed and drew a full share, in the name and right of Louis Gonville, but whether the name Louis was intended to represent Laurent or not they cannot say, but suppose no such mistake could have been made, and deny that such was the case.

They farther state that the New York Company through their trustees, Marsh, Lee & Delavan, claimed one full share in the name and right of Amélia Delorm, formerly Gonville, but petitioners charge that no deed of conveyance valid in law, ever passed from the said Amélia, and that if any paper did pass, it was obtained by covin, confederation and fraud.

Petitioners farther state that said Amélia Gonville, intermarried with one Denqui Delorme, and had by said mariage two children, to wit: Adeline Delorm and Joseph Delorm, and about the year 1837, her and her husband departed this life, without having sold, or in any manner parted with her or their interest in the said half-breed reservation, and without making a will, their said interest descending by law to their said children, Adeline and Joseph above named, in equal portions thereof, that at the time of the pro-

ceedings aforesaid the said children were infants and orphans of tender age, and resided in the State of Illinois, and never had any notice of the proceedings aforesaid, and were incapable of acting for themselves, if they had had such notice.

They farther state that Adeline Delorm became of age on the _____ day of _____ and on the 3rd day of May, A. D., 1854, by proper deed of conveyance, made and executed at St. Clair county, Illinois, where she then always had and still resides, conveyed to plaintiff Black all her right, title, and interest of, in and to the said reservation, all which derivation of title petitioners are ready to verify to this court, when it shall be proper for them to do so.

They farther state that one Francois Hebert, now the wife of Charles Menar, was and is one of the original half-breeds in said treaty and reservation and act of Congress referred to, and as such was the owner in her own right of one full share or interest in common with the other half-breeds, that up to her marriage she had lived on said tract of land as her home, and continued to do so after her marriage to the said Charles Menar; said Francois and husband, after marriage conveyed one-half of their interest in said lands to one Wilson L. Overall and one Isaac R. Campbell, retaining in themselves and for their own use, the other undivided half part of their interest. Previous to the commencement of the partition proceedings above set forth, they removed to the State of Wisconsin, and have resided there ever since, had no notice of the partition proceedings, and did not participate therein in any manner whatever.

Petitioners state that one John Wright who is party to the partition proceedings above set forth, drew by virtue thereof one-fourth of a full share, in the name and right of the same Francois Menar, formerly Hebert, and that one Wilson L. Overall done the same.

That said Francois and husband being still the owners in right of the said Francois of one equal undivided half part of a full share, in the reservation aforesaid, by proper deed of conveyance, on the 27th day of August, A. D., 1850, conveyed the remainder of their interest, whatsoever it might be to Dousman, Brisbois & Marshall, and on the 7th day of April, A. D., 1851, said Marshall and wife conveyed their interest in the same, to one Mitchell D. Wright, and the said Mitchell D. Wright and wife, on the 19th day of April, A. D., 1852, conveyed their interest therein to one Garry Lewis, who by proper deed conveyed one-sixth of said interest to plaintiff Keithler, who is now the owner thereof in his own right, all which derivation of title petitioners are ready to verify to this honourable court, when it shall be proper for them to do so.

Petitioners farther state that petitioner James Crayton, owns in his own right, two-twentieths of the full share of the said Francois

Menar, formerly Hebert, by title derived from the same source, and in the same manner as the last above stated, and petitioners are ready to verify in the same manner.

Petitioners farther state, that petitioner Joseph Nicum owns in his own right one-fifth of one-sixth of the full share of the said Francois Menar, formerly Hebert, by title derived from the same source, and in the same manner as the last above stated, and petitioners are ready to verify in the same manner.

Petitioners farther state, that Garry Lewis petitioner as aforesaid owns in his own right, one-third of a full share in right of the said Francois, derived in part from the same source, and in the same manner, and partly from Brishois, to whom with Dousman and Marshall, she and husband conveyed on the 27th day of August, A. D., 1850, he having now the equitable title, and about to procure the legal title, and petitioners are ready to verify in the same manner.

Petitioners farther state, that one Maurice Gonville, a member of the family whose origin and lineage has been given in this petition, was, as already charged, a genuine Half-Breed, and entitled to two full shares as set forth on pages 73 and 74 of this bill. That one Benjamin Franklin Messenger, in the proceedings aforesaid, set up a claim to, and drew one full share, in the name and right of the said Maurice Gonville, but petitioners aver and charge that Maurice Gonville never sold to him, said Messenger, nor attempted to sell to him more than one-half of his own share, owned by him in his own right, and one-fourth of his father's interest which he claim by descent as already stated, and one-third of the interest of his brother Laurent, claimed by descent as and in the manner herein before stated. And for truth of this averment the refer to the deeds of said Messenger, filed with his answer in the proceedings aforesaid, and they are made a part hereof.

Petitioners state that said Maurice Gonville, prior to the commencement of the proceedings aforesaid, resided at Cahokia, St. Clair county, Illinois, where he continued to reside up to his death, which took place in 1844 or 5, had no notice of the proceedings aforesaid, and did not participate therein in any manner whatever, nor did any person to whom he conveyed, have notice, or participate as aforesaid, except the said Benjamin F. Messenger.

Petitioner farther states, that petitioner C. H. Wright is now the legal and equitable owner, in his own right, of six-tenths of the one-half share which was owned by said Maurice Gonville in his own right, and which was sold to one Charles Burke by the said Maurice, and by said Burke to one Steven Powers, who died intestate, and said half share descended to his only child, Elvira Powers, whose mother and guardian, by order of the County Court of Lee county, sold the same in part to petitioner Wright, and partly to

others who have either conveyed or agreed to convey to said petitioner; and this title, as well as others already set forth, petitioners are ready to verify in a legal and proper manner, and at such time as they may be required to do so by this court.

Petitioners farther state, that each of them has a family, and resides therewith upon the said tract of land, and have so resided for a long time heretofore, that they, and each of them, have at this time farms and valuable improvements thereon, which they have made and caused to be made, in the hope of enjoying the same; that they severally have more genuine title to said land than will cover the portion each of them occupies, and the claimants under the proceedings aforesaid, and those claiming through or under them, are asserting that their titles based upon and derived from the Decree of 8th of May, 1841, above herein given, is paramount to all other titles, thereby throwing a shade or doubt upon, and putting in jeopardy the title of petitioners. That the Courts of this State, when adjudicating upon said proceedings as a court of law only, and considering said proceedings as emanating from a court having proper jurisdiction, and supposing that truth and truth only appeared upon the face of the record in said partition suit, have held the same to be valid and binding forever. That the time to review said record and proceedings by writ of error has elapsed, and that petitioners and those under whom they severally claim, not having been parties to said proceedings, are not now and never was in a situation to cause said record to be reviewed on writ of error, and they are therefore without remedy at law, and unless they can impeach and set aside said Decree in this Honorable Court of Chancery to which they now appeal, they must be deprived of and lose all the right they severally have in the said tract of land, except what they may be able to save under the present occupying claimants' law of this State.

Petitioners again reiterate their charge, that said partition proceedings are illegal and fraudulent, and therefore void, as well on account of the several matters and things already set forth, as those hereinafter specified. And they beg leave now to state in order the special illegalities and fraudulent transactions in the partition proceedings and record aforesaid, and committed by the several persons connected therewith, including parties counsel and the court before whom the same were had.

1st. They charge and believe that the partition law of 1839, under which said proceedings were had was drawn up by a person either directly or remotely interested in the Half-Breed Tract, and with intent to defraud the holders of titles thereto, who might not get notice when the same should be partitioned.

2d. They charge that said law conflicts with the Ordinance of 1787, and invades the rights of the owners of the soil, within

connect.

the then Territory of Iowa, granted by the United States, and is therefore void, as well as all proceedings had under it.

3d. They charge that Reid & Johnson, attorneys for a number of the parties, pretended to represent, and did represent, parties who had no known existence, and who could not have employed them, and who did not employ them, in commencing said partition suit, to-wit: "Heirs and legal representatives of Otis Reynolds, deceased," "Heirs and legal representatives of J. A. H. Palmer, deceased, and others," and consented for said parties to all said proceedings, without any authority to do so, and that without such consent no such decree of partition could have taken place.

4th. They charge that said Reid and Johnson attorneys for complainants, on the——day of October, 1840, came into court then in session, and by falsely and fraudulently representing to said court, that they had caused the publications of notice ordered to be made by the court at its April term before, and that they were producing and filing proof thereof, according to law and the rules of said court, induced it to make the following entry upon its docket, to wit: On this day came the petitioners, by Reid & Johnson, their attorneys, and made proof of the notice and publication ordered to be made at the April term, 1840, when in truth and in fact, the order made at said April term, was to publish in two newspapers as required by law, and they only filed proof of publication in one, and therefore the foregoing entry is false and fraudulent, whilst the entire proceedings aforesaid are based on the supposition that was and is true.

5th. They charge that petitioners were bound to set out the respective shares or interests in the lands sought to be divided, if known, and if not known, that fact should have been stated, to comply with the law, and to inform the court of the real ownership of the land. That they did not do so, although the titles in their hands, or in the hands of their attorneys, Reid & Johnson, shewed beyond controversy, that there were other interests that should have been set out, and other owners that should have been made parties. The plaintiffs Josiah Spalding, John and Edward Walsh, Greene Erskine, Herman C. Cole, Stephen Gore, and heirs and legal representatives of Otis Reynolds, deceased, claimed among them seven-eighths of a share, in the name and right of Francie Blondeau, leaving one-eighth of said share outstanding, making no provision therefore in the partition, and not making its owner a party thereto in anyway whatever if said half-breed is the same under whom petitioner Block claims in part by descent, (which is however denied,) then he is by the proceedings aforesaid, wronged and defrauded out of said interest.

6th. They charge that John Wright and Wilson L. Overall, who were defendants to said original suit, claimed in their answers

to own three-fourths of a share in the name of Francis Hebert, leaving one-fourth unprovided for in any way in said suit, they and each of them necessarily knowing the fact of its existence, validity and justice.

7th. They charge that Benjamin Franklin Messenger, claimed one entire share in the right and name of Maurice Gonville, when in truth the conveyance filed and made a part of his answer in which said claim is set up, shows him to have purchased one half of his interest, and informs him by a recital therein, that one-half of said Maurice's interest, had been previously sold. Said deed is hereby specially referred to and made a part hereof.

8th. They charge that plaintiffs in said petition for partition, first, and the claimants by answer afterwards, purposely avoided setting forth or bringing to light the interest of other owners, known and unknown, in said Half Breed Tract, and on the contrary suppressed them, with a view to finally shut them out of the partition, and appropriate them to their own use, by converting the partition into a manufacture of title.

9th. They charge that the peculiar nature of wandering tribes of Indians, the sexual commerce of their females with white men of various nations and races and other circumstances, made it difficult if not impossible to tell who were half-breeds and who were not, and in consequence thereof, a considerable trade and commerce was carried on in claims to the half-breed lands, by white speculators, for a long time before the proceedings complained of, they admitting they were spurious in many instances, but saying they would do to trade upon that many of the persons thus trading in spurious claims, were parties to the partition suit, and presented claims based upon spurious, false and fraudulent conveyances, and titles obtained from half-breeds who had formerly sold, and who were known to have sold, and from Indians who were Indians, but alleged to be half-breeds to suit the occasion, William Phelps, Antoine Leclaire and the New York company are believed to be of this character, also some others.

10th. They charge that Marsh, Lee & Delavan, trustees for the New York land company, claimed sixty-seven shares and parts of shares, out of all which not more than eight or ten were genuine, they however in a commendable spirit of accomodation, came down to forty-one full shares, a fall of a little over one-third, when the decree was made.

11th. They charge that the New York land company, not being incorporated in Iowa Territory, now in the State of New York, could not be and ought not to have been recognised as a party to said suit, and that their trustees if allowed to appear at all, could only claim and draw such portions of said reservation, as they had title to themselves, yet they were permitted to draw entire portions

thereof upon conveyances made to themselves and others; deeds on file are hereby specifically referred to, and made a part hereof.

12th. They charge that at the time of the commencement of the proceedings aforesaid, and for a long time before, valid deeds for genuine portions of said lands, and for the interests now claimed by plaintiffs, were on record in the counties of Desmoines and Lee, and imparted notice of title to all men, and should have been respected, by making the owners thereof parties to said partition suit, or at least informing the court thereof.

13th. They charge that the parties to said decree, and the attorneys who acted for them, had full knowledge of the existence and record of such deeds, and avoided setting them out in the proceedings aforesaid, and making the owners parties, for the fraudulent purpose herein before stated.

14th. They charge that many of the parties to said partition suit, had previously sold good and valid claims to said lands, received valuable considerations therefor, necessarily knew of their existence, and yet suppressed or concealed said knowledge, made no provisions for their grantees, and by virtue of the compromise complained of, appropriated the whole of the land to their own use.

15th. They charge that at the term of the court at which said compromise was made, if said partition suit had been permitted to take the usual course of litigation, it could not have been tried for want of time, and that all persons interested in, and in attendance upon said court, except those in the combination and confederation complained of, believed that it could not and would not be tried at that term, but that a special term of said court would be called for the purpose of trying it.

16th. They charge that the confederates aforesaid, with full knowledge that a compromise was intended to be made, and at the time agreed upon, and with intent to conceal the same, and to deceive and induce persons interested therein, to leave the court and go home, told various persons interested, and not interested, that no trial of said partition suit would be had at that term, and thereby actually induced parties to said suit to go home and abandon the same for that term.

17th. They charge that answers of defendants setting up claims to interests in said reservation, to the amount of ninety or ninety-two shares, were not filed until late in the day, or in the night of the day on which the Decree bears date, to wit, 8th day of May, A. D. 1841, and that no replication were ever filed in said cause.

18th. They charge that the decree itself was drawn up by the attorneys interested, and fully agreed upon by the parties and their legal representatives, in secret combination, collusion and confederation, and for the purposes before stated, before the filing of a

large majority of the claims, and before the suit was ready for the action of the court.

19th. They charge that the court adjourned late on the evening of said 8th day of May, 1841, with the understanding, of all but the confederates, that it was adjourned for the term, and his Honor, Judge Mason, instructed his clerk to close up the records and he would call after supper and sign them.

20th. They charge that the court was at that time held in one of the rooms of a hotel, where most persons in attendance upon it procured accommodations, that at a late hour in the night of Saturday, the said 8th of May, 1841, when nearly all persons in attendance had left for home, the most secret hour that could possibly have been selected, the Judge, accompanied by the attorneys in the plot, entered the court room from another part of the hotel, and resumed his court, calling up said partition suit, when the several attorneys concerned, represented that all the owners of the lands aforesaid, had filed their claims, and that a mutual agreement of partition had been agreed upon among them, which was legal, just, fair, equitable and satisfactory, and by so representing induced him to believe such was the truth, and that the proof of publications of notices had been made and was then on file in said court, and that there existed no valid or legal reason why their said agreement of compromise should not be adopted and carried out. Whereupon the said Judge, confiding in the truth of the statements made, without investigation of any kind or of any paper in the case, and without hearing any proof whatever, and without even reading decree which had been drawn up as herein before stated, adopted the same and ordered it to be enrolled upon the records of his court.

21st. They charge that all the substantial facts thus represented to be true on that occasion, and confided in and believed by the court, were false and fraudulent, and known to be so when made, and made for the purpose of divesting the title of those not represented, and investing the entire title to the *Half breed tract* in the parties to the compromise so made.

22nd. They charge that the parties interested in said land were not all represented, as stated, that very many spurious claims were in, that ought not to have been allowed, that said compromise was neither legal, fair, just, honest or equitable, and there did exist very many valid, legal and equitable reasons why said compromise should not have been made, at the time and in the manner it was made.

23rd. They charge that at the time, that is on the night of 8th May, 1841, after supper, the court was not legally in session, having adjourned for the term before supper.

24th. They charge that if regularly in session, it had no juris-

diction over the persons or property of any persons not voluntarily before it, for the reason that proof of the publications of notices required by law and previously ordered by the court had not been made, the minute that had been made on the record at the previous October term, being false, the court having been imposed upon and misled by Reid and Johnson, attorneys for petitioners, in the manner herein before stated, and the recital in the decree itself that "sufficient proof that the publications required by the act entitled an act for the partition of real property, had been duly made," being also false and fraudulent, and no proof of any kind made but that filed on October 9th, 1840, which is of one publication only.

25th. They charge that six hundred and forty acres of land claimed in the original petition and answers, to belong to the reservation aforesaid, and to be owned by the parties to said partition suit, without the right of the parties being denied, and without title to the same being asserted by pleading upon the record, upon the mere motion of some one who stood in the way of the consummation of their designs, was left undivided and excepted from the partition.

26th. They charge that the decree was drawn up and completed, and fully ready for adoption by the court, and brought into court ready to be signed, without any such exception, and the reservation of six hundred and forty acres aforesaid, was concocted afterwards, and the paper or supplement to the decree reserving it, written and attached to the decree with wafers after the court adjourned, *Sine die*.

27th. They charge that said parties to the original partition suit, partitioned among themselves more than twenty thousand acres of land in said compromise, to which in their original pleadings they set up no title whatever, the original petition describing the land sought, to be divided as bounded on the North by a line drawn due East from the North West corner of the State of Missouri, and which description is uncontradicted and acquiesced in by the answers of all the defendants; yet they partition, divide and appropriate to their own use, and now, by virtue of the compromise aforesaid, assert title to all the land Northward up to a line run, it is believed eleven degrees North of due East, from the aforesaid North West corner of the said State of Missouri, thereby increasing the area of the land partitioned beyond the quantity prayed in the petition to be partitioned by the number of acres above stated or more.

28th. They charge that the date of the compromise aforesaid, the true and correct Northern boundary of said Half Breed tract ran from the North West corner of the State of Missouri, a course eleven degrees North of due East, and said decree of partition covered said entire Half Breed tract, and under the decree the entire

tract was partitioned while the petition for the partition was only for a part of said Half Breed tract.

29th. They charge that said compromise never was the act or adjudication of the court, but a mere agreement of interested confederates, made for the purposes stated, and of no binding force, either in law or in equity, upon parties not participating therein.

30th. They charge that several suits have been instituted in the courts of Lee county, for the same purpose as the present, all of which have been compromised by the defendants or original parties to said compromise decree, giving to the complainants the amount in land or an equivalent in money, to which they were severally entitled, on the hypothesis in this bill indicated, thereby fully confessing the fraud and illegality charged herein, by their action and conduct in said suits and compromises of them. The papers and records of said suits are hereby referred to and made a part hereof.

31st. They charge that all the parties now interested in the said tract of land, by purchase, or any other means whatever, had legal and proper notice of the illegality and fraud charged, having access to the records of the fraudulent proceedings on which their title is based, and from which alone it is derived, and therefore, stand in no better situation, and are no more entitled to protection than the original parties themselves.

32nd. They charge that in the agreement of compromise, the parties thereto purposely avoided setting out the name of the particular half breed, in right of whom each share was drawn, thereby rendering it impossible to trace title any farther back than the decree itself, which fact being fraudulent, or at least indicative of fraud, was sufficient to put purchasers and all others on their guard.

33rd. They charge that each of the facts alleged in the foregoing specifications, are either fraudulent in themselves, or badges of fraud, as well as other charges contained in this bill.

Petitioners state that Josiah Spaulding, William Phelps, Rosella O'Gliem, Samuel Marsh, William E. Lee, Edward C. Delavan, Charles Thompson, Patrick Walsh, Ettienne Provost, George Crossman, Heirs and legal representatives of Otis Reynolds, deceased, William H. Smith, John B. Sarpy, Edmund H. McCabe, Heirs and legal representatives of J. A. H. Palmer, deceased; Margaret Farrar, John Walsh, Edmund Walsh, Henry T. Darrah, Uriel Wright, William McDaniel, Edwin Manning, Henry S. Austin, John Bertram, Thomas Connelly, William Gullis, Antoine Leclaire, Archibald Gamble, James Smith, William Smith, and Dalzell Smith, Green Erskine, Abijah Fisher, D. W. Kilbourne, Mary L. Murdock, James R. McDaniel, John H. Lines, Joseph W. Walsh, Angelique Mattabon, Samuel Abbott, Abraham Wendall, James L. Schoolcraft, Wilson L. Overall, Henry McKee,

Ephrosine Antaya, James Manning, Samuel Hearne; Heirs of H. K. Ortly, Herman C. Cole, Joseph Ridgeway, Antoine Garcia and wife, Hugh Tumulty, John C. Ward, Garret V. Denniston, Sheldon Norton, Ebenezer D. Ayres, Heirs at law of Nathaniel Knapp, Edward Kilbourne, Elisabeth Hunt, Elisa O. Perkins, Benjamin Franklin Messenger, James Muir, Agustus Gonville, William Price and wife, Henry Brown, John Wright, Stephen Gore, Michael Tesson, James L. Burtis, and William H. Smith, were parties to the proceedings and compromise decree complained of, and they pray that they, their heirs and legal representatives, and all persons claiming title to the aforesaid *Half Breed reservation*, by, through, or under them, or any of them, so far as the same can legally be done, be made defendants to this bill.

Petitioners farther state that they have not refered to the proceedings at large in the partition suit of which they complain, and seek to assail, for the purpose of proving the truth of the matters and things therein contained, but for the purpose of showing the falsehoods, frauds, combinations, collusions, and confederacies charged in this bill, and the manner in which the same were perpetrated.

Petitioners farther state that said compromise decree, ought to annulled, made void, and held for naught, and the said *Half Breed tract* of land partitioned anew among the rightful owners thereof. And they therefore pray that the said parties heretofore named as defendants hereto, be compelled to appear and answer this bill of complaint, discover and show by what right, title, or pretense they claim to hold any interest or claim in said land, and that they be put to the proof of the equity and legality of their title before their claims shall be allowed. And that all and singular, the facts of the case and the rights of the respective parties, and true claimants being made to appear to the court, that full Justice and equity may be done in the premises. That a fair and equitable partition of said tract of land, between the rightful owners thereof may be made, and that full and ample relief in the premises, both general and special, legal and equitable, may be granted and decreed, as equity and good conscience, and the nature of the case shall require. And especially that the said decree or compromise be vacated and annulled, for the various reasons aforesaid, and that a re-partition of the said land be had among the rightful owners thereof, according to their respective titles or claims, when authenticated by legal proof, and that full and complete Justice may be done in the premises, to all the parties excluded by said compromise decree of 8th May, A. D. 1841, among whom are your petitioners.

And for such other and farther relief as in law, equity, or good conscience, they or any of them may be entitled to in the premises.

ARCHIBALD WILLIAMS,

FRANCIS SEMPLE,

Attorneys for Petitioners.

(Endorsed.) Filed March 27th, 1856.

ERIE J. LEECH,

Clerk District Court.

By JOHN A. NUNN,

Deputy.

STATE OF IOWA, }
County of Lee. } Sct:

I, Erie J. Leech, Clerk of the District Court, in and for the said County and State, hereby certify that the foregoing pages, numbered from ONE to FIFTY-FOUR inclusive, contain a full, true, and complete copy of the Petition and Notice filed in my Office, in the foregoing entitled cause, as fully as the same appears of record therein. (Except, perhaps, some of the Indian names may be spelled wrongfully.)

In Testimony WHEREOF, I have hereunto set my hand, and affixed the Seal of said Court at Office, at Fort Madison, this 18th day of July, A. D. 1856.

ERIE J. LEECH,
Clerk District Court.

J. B. HOWELL & Co., Frs., Keokuk.

